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CHARTER

OF THE

City and County of San Francisco

Recodified November 2, 1971, in effect December 7, 1971

Published by

Authority of the Board of Supervisors

Robert J. Dolan, Clerk of the Board

CHARTER AMENDMENTS

Section Amended	Section Added	Section Repealed	Date of Election	Date Ratified
8.323			Nov. 6, 1973	Dec. 20, 1973
8.330			Nov. 6, 1973	Dec. 20, 1973
8.332			Nov. 6, 1973	Dec. 20, 1973
8.340			June 6, 1972	June 30, 1972
do			Nov. 7, 1972	Nov. 30, 1972
do			Nov. 6, 1973	Dec. 20, 1973
8.400			June 6, 1972	June 30, 1972
8.405			June 6, 1972	June 30, 1972
8.423			Nov. 7, 1972	Nov. 30, 1972
8.428			Nov. 7, 1972	Nov. 30, 1972
8.452			June 4, 1974	June 29, 1974
	8.506-1		June 6, 1972	June 30, 1972
8.509			Nov. 6, 1973	Dec. 20, 1973
	8.521		Nov. 7, 1972	Nov. 30, 1972
	8.535		June 6, 1972	June 30, 1972
8.536			June 4, 1974	June 29, 1974
	8.536		Nov. 6, 1973	Dec. 20, 1973
	8.537		June 4, 1974	June 29, 1974
8.545			June 6, 1972	June 30, 1972
8.546			Nov. 7, 1972	Nov. 30, 1972
8.547			Nov. 7, 1972	Nov. 30, 1972
8.549			Nov. 7, 1972	Nov. 30, 1972
8.569			June 6, 1972	June 30, 1972
do			Nov. 6, 1973	Dec. 20, 1973
8.570			Nov. 7, 1972	Nov. 30, 1972
8.571			Nov. 7, 1972	Nov. 30, 1972
8.573			Nov. 7, 1972	Nov. 30, 1972
	9.100-1		Nov. 6, 1973	Dec. 20, 1973
9.103			Nov. 6, 1973	Dec. 20, 1973
9.104			Nov. 7, 1972	Nov. 30, 1972
9.105			Nov. 7, 1972	Nov. 30, 1972
do			Nov. 6, 1973	Dec. 20, 1973
9.106			Nov. 6, 1973	Dec. 20, 1973
9.111			Nov. 7, 1972	Nov. 30, 1972
9.112			Nov. 7, 1972	Nov. 30, 1972
9.115			Nov. 6, 1973	Dec. 20, 1973

CHARTER AMENDMENTS through 11/76

Section Amended	Election	Proposition
2.100	11/76	T
2.203-2	6/76	F
2.304	11/76	P
3.100-1	11/75	N
3.201	6/76	A
3.500	11/75	F
3.510	11/74	I
3.530	11/75	D
3.540	11/75	D
3.552	11/74	K
3.600	11/76	K
3.641	11/74	K
3.660	11/75	D
6.205	11/75	C
6.305	11/75	C
6.306	11/74	D
6.413	11/74	J
7.300	11/76	P
7.306	11/76	P
7.308	11/76	P
7.309	11/76	P
7.403	11/75	A
7.501	11/74	B
8.105	11/75	H
8.300-1	11/76	J
8.321	11/76	F
8.323	6/76	D
8.324	6/76	H
8.329	11/76	E
8.340	11/75	G
8.341	11/76	C
8.345	11/75	O
8.346	11/76	B
8.362 REPEALED	6/76	C
8.401-1	6/76	I
8.403 DELETED	11/75	B

Disposition of Former Sections

1932 Charter Section		*Recodified Charter Section*
35.13		Deleted
36	par. 1	3.540
	par. 2	3.541
	par. 3	3.540
	par. 4	3.542
	par. 5	3.542
	par. 6	3.542
	par. 7	8.405
	par. 8	8.452
	par. 9	8.452
	par. 10	3.547
	par. 11	8.405
36.1		Deleted
36.1½		3.543
36.2		8.405 (c)
36.2.1		Deleted
36.3	par. 1	8.405 (d)
	par. 2	Deleted
	par. 3	Deleted
	par. 4	8.405 (c)
	par. 5	Deleted
37		3.544
38		3.545
38.01	par. 1	3.542
	par. 2-9	8.327
	par. 10	8.405 (c)
	par. 11	Deleted
	par. 12	Deleted
38.1		Deleted
38.2		Deleted
38.3		3.546
39	par. 1	3.650
	par. 2	3.651
40	par. 1	3.550
	par. 2	3.550
	par. 3	Deleted
41	par. 1	3.551
	par. 2	3.551
	par. 3	Deleted
41.1		7.403 (a)
42	par. 1	3.552
	par. 2	3.552
	par. 3	3.552
	par. 4	3.552
	par. 5	Deleted
42.1	par. 1	3.552
	par. 2	3.552
	par. 3	3.553
42.2		7.403 (b)
42.3		7.403 (c)
42.4		6.400 (b)
43	par. 1	3.560
	par. 2	3.560
	par. 3	3.561
	par. 4	8.300 (a)
	par. 5	Deleted
44	par. 1	3.610
	par. 2	3.611
	par. 3	6.404 (a)
45		3.600
46		3.601
47		Deleted
48		Deleted
48.1		Deleted
48.2	par. 1	3.582
	par. 2	6.401 (b)
	par. 3	3.582
	par. 4	3.582
	par. 5	3.580
48.3	par. 1-18	3.581
	par. 19-22	7.305
	par. 23-24	3.581
	par. 25	3.585
48.4	par. 1-3	3.583
	par. 4	8.300 (c)
	par. 5	3.584
	par. 6-15	6.406
49		3.100
50	par. 1	3.620
	par. 2	3.621, 3.622, 8.300 (a), 3.623
	par. 3	6.404 (b)
	par. 4	3.624
51	par. 1	3.630
	par. 2	3.631
	par. 3	3.631, 6.404 (c), 3.632, 8.300 (a), 3.633
	par. 4	3.634
52	par. 1	3.640
	par. 2	3.641, 3.642
	par. 3	3.643
	par. 4	6.404 (d)
	par. 5	8.300 (d), 8.300
	par. 6	3.644
52.1		6.411
53		4.100
54		4.101
55		4.102

Disposition of Former Sections

1932 Charter Section		*Recodified Charter Section*
56		4.103
57		4.104
58	par. 1-9	4.105
	par. 10	8.300 (a)
	par. 11	4.105
59		3.200
60		3.201
61	par. 1-3	3.510
	par. 4	3.510, 11.102
	par. 5	11.102, 3.510
	par. 6	11.102
	par. 7	3.510
	par. 8	11.102, 3.510, 8.300
	par. 9	3.510
	par. 10	3.510
	par. 11	8.300, 3.510
	par. 12-16	3.510
61.1	par. 1-5	3.570
	par. 6	3.571
	par. 7	3.573, 11.102
	par. 8	8.300 (a)
	par. 9	3.572
62		8.300 (a)
63	par. 1	3.300
	par. 2	Deleted
64	par. 1-2	3.301
	par. 3	3.301, 3.596
	par. 4	3.301
65		3.302
66		3.303
67		3.304
68		3.305
69	par. 1	6.100
	par. 2-6	6.200
	par. 7	6.203
69.1		6.202
69.2		7.304
70		6.201
70.1	par. 1-19	8.406
	par. 20	Deleted
	par. 21	8.406
71		8.400 (h)
72	par. 1	6.203
	par. 2	6.203, 6.204
	par. 3-8	6.204
	par. 9-13	6.205
	par. 14	6.206
	par. 15	6.301
	par. 16	6.300
73		6.207
74		6.205
75		6.308
76		6.302
77		6.305
78	par. 1	6.208
	par. 2	6.400 (c)
	par. 3	6.400 (a)
79		6.307
80		6.306
81		6.304
82		6.311
83		6.310
84		6.309
85	par. 1	6.303
	par. 2	8.400 (b)
	par. 3-6	6.303
85.1		8.400 (b)
86	par. 1	6.306
	par. 2	6.302
	par. 3	6.313
	par. 4	6.302
	par. 5	6.312
87		7.703
88		7.100
88.1		7.101
88.2		7.102
89		7.103
90		7.104
91		7.400
92	par. 1	7.401
	par. 2	6.409
	par. 3	7.401
92.1		7.703
93		7.402
93.1		7.402
94		7.400
95		7.200
95.1		7.201
96		7.202
97		7.203
98		7.204
99		7.205
100		7.206
101		7.300
101.2		7.307
102		7.301
103		7.302
104		6.401 (a)
105		7.303

Disposition of Former Sections

1932 Charter Section		*Recodified Charter Section*
106	par. 1	3.510
	par. 2	Deleted
	par. 3	3.510
107	par. 1	7.600
	par. 2	3.510
107.1		3.510
108		7.601
109		7.602
110		7.603
111		6.409
112		7.604
113		7.605
114		7.606
115	par. 1	3.520, 3.521
	par. 2	3.521
	par. 3	Deleted
	par. 4	3.521
116	par. 1	3.522, 3.523
	par. 2	3.524
	par. 3	3.524
	par. 4	3.524
	par. 5	3.525
	par. 6	3.526
	par. 7	3.529
	par. 8	3.528
116.1		3.527
117		Deleted
117.1		7.501
117.2		7.502
117.3	par 1, 2	7.503
	par. 3	3.651
118		3.527
119		3.599
119.1		Deleted
120		3.590
121	par. 1-7	3.591
	par. 8	3.597, 6.401 (c)
122		3.592
123		7.404
124		3.593
125	par. 1	8.300 (a) par. 2, 8.300 (f)
	par. 2	Deleted
	par. 3	Deleted
	par. 4	8.450
125.1		8.300 (e)
126		3.594
127		6.407 (a)
128		6.407 (c)
128.1		6.407 (d)

1932 Charter Section		*Recodified Charter Section*
129		6.407 (e)
130		3.598
131		Deleted
132		Deleted
132.1		3.595 (c)
133		3.595 (a)
134		5.100
135		5.101
135.1		5.103
136		5.102
136.1		5.104
137		3.690
137.1		3.691
137.2		7.405
137.3		3.691 par.2
137.4	par. 1	3.693
	par. 2	3.692
137.5		3.693 par. 2 & 3
137.6		8.300 (h)
137.7		3.694
138		6.408
138.1		6.408
139		7.306
139.1		3.690
139.2		Deleted
140	par. 1	3.660, 8.310 (a)
	par. 2-5	3.660
141		3.661
142	par. 1-7	8.300 (a)
	par. 8	Deleted
	par. 9	8.103
142.1		Deleted
143		8.200
144		8.320 (a), 8.320 (d)
145	par. 1	8.321
	par. 2	8.320 (b)
	par. 3	8.320 (c)
	par. 4	8.321
	par. 5	8.330
	par. 6	8.324
145.01		8.324
145.02		8.310
145.1	par. 1	8.331
	par. 2	8.331, 6.405
	par. 3, 4	8.331
146	par. 1	8.326, 8.327
	par. 2-end	8.327
146.1		8.328
147		8.325

Disposition of Former Sections

1932 Charter Section	*Recodified Charter Section*
147.1 par. 1	8.322
par. 2	8.323
148 par. 1, 2	8.329
par. 3	8.340
149 par. 1-4	8.332
par. 5	8.333
150	8.400
151 par. 1	8.400 (a)
par. 2	8.401, 8.402
par. 3-10	8.401
151.1	8.401
151.2	8.401
151.3 par. 1, 2	8.403
par. 3-13	Deleted
par. 14, 15	8.403
151.3.1	8.404
151.4	8.440
151.4.1	8.440
151.4.2	8.440
151.4.3	8.440
151.4.4	8.440
151.4.5	8.440
151.4.6	8.440
151.5 par. 1, 2	8.440
par. 3	Deleted
151.6	8.411
152	3.661 (b)
153 par. 1	8.360
par. 2-9	8.361
par. 10	Deleted
par. 11	8.363
153.1	8.362
154 par. 1-3	8.341
par. 4	8.342
155	8.343
155.1	8.344
156 par. 1	8.350 (a)
par. 2	8.350 (b)
par. 3	8.350 (c)
156.1	8.351
156.2 par. 1	8.350 (d)
par. 2	8.350 (e)
156.3	8.350 (f)
157	8.311
158	8.500
158.1	8.501
158.2	8.502
158.3	8.503
158.4	8.504
158.5	8.507

1932 Charter Section	*Recodified Charter Section*
159 par. 1	3.670, 3.672
par. 2	3.671
160	8.510
161	8.520 (a)
161.1	8.520 (b)
161.2	8.520 (c)
161.3	8.520 (d)
161.5	8.520 (e)
162	8.560
163	8.511
164	8.525
164.1	8.526
165	8.507
165.1	8.508
165.1.1	8.530
165.1.2	8.531
165.1.4	8.532
165.1.5	8.533
165.2	8.509
165.2.1	8.534
165.3	8.512
165.4	8.513
165.6	8.514
166	8.540
166.1	8.541
167	8.542
168	8.543
168.1	8.544
168.1.1	8.545
168.1.2	8.546
168.1.3	8.547
168.1.4	8.548
168.1.5	8.549
168.1.5.1	8.550
168.1.5.2	8.550
168.1.6	8.551
168.1.7	8.552
168.1.8	8.553
168.1.9	8.554
168.1.10	8.555
168.1.11	8.556
168.1.12	8.557
168.1.13-168.1.18	Deleted
168.2	8.561
169	8.565
170	8.566
171	8.567
171.1	8.568
171.1.1	8.569
171.1.2	8.570

Disposition of Former Sections

1932 Charter Section	*Recodified Charter Section*
171.1.3	8.571
171.1.4	8.572
171.1.5	8.573
171.1.5.1	8.574
171.1.6	8.575
171.1.7	8.576
171.1.8	8.577
171.1.9	8.578
171.1.9.1	8.562
171.1.10	8.579
171.1.11	8.580
171.1.12	8.581
171.1.13-171.1.15	Deleted
172	8.515
172.1	8.420
172.1.1	3.680
172.1.2	8.421
172.1.3	8.422
172.1.4	8.423
172.1.5	8.424
172.1.6	8.425
172.1.7	8.426
172.1.8	3.681
172.1.9	3.682
172.1.10	8.427
172.1.11	8.428
172.1.12	8.429
172.1.13	8.430
172.1.14	8.431
172.1.15	8.432
173	9.102
174	9.103
175	9.104
176	9.105
177	9.106
178	9.107
179	9.108
180	9.109
181	9.110
182	9.111
183	9.112
184	9.113
185	9.114
186	9.115
187-218	Superseded by state statutes
219	8.410
220	7.702
221	10.100 (e)
222 par. 1	8.105 (a)
par. 2	8.105 (b)
par. 3	8.105 (c)
par. 4	8.105 (d)
222.1 par. 1	8.105 (e)
par. 2	8.105 (f)
par. 3	8.105 (g)
par. 4	8.105 (h)
par. 5	8.105 (i)
223	8.106
224	10.100 (g)
225	10.101
226	10.102

TABLE II

ORIGIN OF SECTIONS OF THE 1971 (RECODIFIED) EDITION OF THE 1932 CHARTER AS AMENDED

Recodified Charter Section	*1932 Charter Section*	
1.100	1	
1.101	2	par. 1,5
1.102	3	
2.100	10	par. 1
2.101	9	par. 1,3
	19	par. 1
2.102	9	par. 4
2.200	10	par. 2,3
2.201	10.1	
2.202	10	par. 2
2.203	12	
2.300	13	par. 1,7
	13.1	
	15	
2.301	16	
2.302	14	par. 1,2
		par. 4,5
2.303	14	par. 3
2.304	16	
2.305	15	
2.306	17	
2.307	23	par. 2
2.400	21	
2.401	22	par. 1,2
3.100	25,49	
3.101	22	par. 1
3.200	59	
3.201	60	
3.300	63	par. 1
3.301	64	par. 1-4
3.302	65	
3.303	66	
3.304	67	
3.305	68	
3.400	28	
3.401	26,	
	26.1	
3.402	29, 30	
3.403	33	
3.404	32	
3.405	31	
3.406	34	
(b)	34.1	par. 1,3
(c)	34.1	par. 2
3.500	19,	par. 2(a-i)
	19	par. 3
	22	par. 1,2
3.501	20	
3.510	24	par. 2
	61	par. 1-5
		par. 7-11
	61,	par. 12-16
	106	par. 1,3
	107	par. 2
	107.1	
3.520	115	par. 1
3.521	115	par. 1,2
		par. 4
3.522	116	par. 1
3.523	116	par. 1
3.524	116	par. 2-4
3.525	116	par. 5
3.526	116	par. 6
3.527	116.1	
	118	
3.528	116	par. 8
3.529	116	par. 7
3.530	35	par. 1
3.531	35.5	par. 1
3.532	35.1	
3.533	35.4	
3.534	35.3	
3.535	35.9	
3.536	35.10	
3.537	24	par. 2
	35.6	
	35.7	
	35.12	
3.538	35	par. 1-3
3.539	35.8	
	35.8.1	
3.540	36	par. 1,3
3.541	36	par. 2
3.542	36	par. 4-6
	38.01,	par. 1
3.543	36.1½	
3.544	37	
3.545	38	

Origin of Sections

Recodified Charter Section	*1932 Charter Section*	
3.546	38.3	
3.547	36	par. 10
3.550	40	par. 1, 2
3.551	41	par. 1, 2
3.552	42	par. 1-4
	42.1	par. 1, 2
3.553	42.1	par. 3
3.560	43	par. 1, 2
3.561	43	par. 3
3.570	61.1	par. 1-5
3.571	61.1	par. 6
3.572	61.1	par. 9
3.573	61.1	par. 7
3.580	48.2	par. 5
3.581	48.3	par. 1-18
		par. 23, 24
3.582	48.2	par. 1
		par. 3, 4
3.583	48.4	par. 1-3
3.584	48.4	par. 5
3.585	48.3	par. 25
3.590	120	
3.591	121	par. 1-7
3.592	122	
3.593	124	
3.594	126	
3.595 (a)	133	
(c)	132.1	
3.596	64	par. 3
3.597	121	par. 8
3.598	130	
3.599	119	
3.600	45	
3.601	46	
3.610	44	par. 1
3.611	44	par. 2
3.620	50	par. 1
3.621	50	par. 2
3.622	50	par. 2
3.623	50	par. 2
3.624	50	par. 4
3.630	51	par. 1
3.631	51	par. 2, 3
3.632	51	par. 3
3.633	51	par. 3
3.634	51	par. 3
3.640	52	par. 1
3.641	52	par. 2
3.642	52	par. 2
3.643	52	par. 3

Recodified Charter Section	*1932 Charter Section*	
3.644	52	par. 6
3.650	39	par. 1
3.651	39	par. 2
	117.3	par. 3
3.660	140	par. 1-5
3.661	141	
(b)	152	
3.670	159	par. 1
3.671	159	par. 2
3.672	159	par. 1
3.680	172.1.1	
3.681	172.1.8	
3.682	172.1.9	
3.690	137	
	139.1	
3.691	137.1	
par. 2	137.3	
3.692	137.4	par. 2
3.693, par. 2 & 3	137.5	
3.694	137.7	
3.698	137.4	par. 1
3.700	18	
3.701	21	
4.100	53	
4.101	54	
4.102	55	
4.103	56	
4.104	57	
4.105	58	par. 1-9
	58	par. 11
5.100	134	
5.101	135	
5.102	136	
5.103	135.1	
5.104	136.1	
6.100	60	par. 1
6.200	69	par. 2-6
6.201	70	
6.202	69.1	
6.203	69	par. 7
	72	par. 1, 2
6.204	72	par. 2
		par. 3-8
6.205	72	par. 9-13
	74	
6.206	72	par. 14
6.207	73	
6.208	78	par. 1
6.300	72	par. 16
6.301	72	par. 15

Origin of Sections

Recodified Charter Section	*1932 Charter Section*	
6.302	76	
	86	par. 2,4
6.303	85	par. 1
		par. 3-6
6.304	81	
6.305	77	
6.306	80	
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ARTICLE I

THE EXISTENCE AND POWERS OF THE CITY AND COUNTY

1.100 Name and Boundaries of the City and County

The City and County of San Francisco shall continue as a municipal corporation known by name as San Francisco. The boundaries of the municipal corporation are those set forth in the Government Code of California and as such may be extended as provided by law.

1.101 Rights and Powers of the City and County

The City and County of San Francisco shall have perpetual succession; may appear, sue and defend in all courts and places in all matters and proceedings; may have and use a common seal and alter same at pleasure; may, subject to the restrictions contained in this charter, purchase, receive, hold and enjoy, sell, lease and convey real and personal property; receive bequests, gifts and donations of all kinds of property in fee simple, or in trust for charitable and other purposes; and do all acts necessary to carry out the purposes of such gifts, bequests and donations, with power to manage, sell, lease or otherwise dispose of the same in accordance with the terms of the gift, bequest or trust.

The city and county may make and enforce all laws, ordinances and regulations necessary, convenient or incidental to the exercise of all rights and powers in respect to its affairs, officers and employees, and shall have all rights and powers appropriate to a county, a city, and a city and county, subject only to the restrictions and limitations provided in this charter, including the power to acquire and construct plants, works, utilities, areas, highways and institutions outside the boundaries of the city and county, and maintenance and operation of the same, and the exercise of functions or maintenance of services outside the boundaries of the city and county, including the expenditure of funds therefor through any agency. The specification or enumeration in this charter of particular powers shall not be exclusive. The exercise of all rights and powers of the city and county when not prescribed in this charter shall be as provided by ordinance or resolution of the board of supervisors.

1.102 Use of State Law Procedures

Where a procedure for the exercising of any rights or powers belonging to a city, or a county, or a city and county is provided by statute of the State of California, said procedure shall control and be followed unless a different procedure is provided in, or by ordinance enacted under authority of, this charter.

1.103 Officers of the City and County

The officers of the city and county shall be the officers elected by vote of the people, members of the board of education, members of boards and commissions appointed by the mayor, members of the juvenile probation and adult probation boards or committees, members of the board of law library trustees, the superintendent of schools, the clerk of the municipal court, the secretary and jury commissioner of the superior court, the executive appointed by each board or commission as the chief executive officer under such board or commission, the controller, the chief administrative officer, the head of each department under the chief administrative officer and the coroner, public administrator, county clerk, tax and license collector, recorder, registrar of voters, horticultural commissioner, sealer of weights and measures, and such other officers as may hereafter be provided by law or so designated by ordinance.

ARTICLE II

THE LEGISLATIVE BRANCH

Chapter One: Composition and Powers of Board of Supervisors

2.100 Composition and Salary

The board of supervisors shall consist of eleven members elected at large. Each member of the board shall be paid a salary of ninety-six hundred dollars ($9,600) per year and each shall execute an official bond to the city and county in the sum of five thousand dollars ($5,000).

2.101 Powers

The powers of the city and county, except the powers reserved to the people or delegated to other officials, boards or commissions by this charter, shall be vested in the board of supervisors and shall be exercised as provided in this charter.

The exercise of all rights and powers of the city and county when not prescribed in this charter shall be as provided by ordinance or resolution of the board of supervisors.

The supervisors shall determine the maximum number of each class of employment in each of the various departments and offices of the city and county and shall fix rates and schedules of compensation therefor in the manner provided in this charter.

On the recommendation of the mayor and the chief administrative officer, the board of supervisors may create or abolish departments which are now or may hereafter be placed under the chief administrative officer or under commissions appointed by the mayor.

The board of supervisors may, by ordinance, confer on any officer, board or commission such other and additional powers as the board may deem advisable.

The board of supervisors, by ordinance, may provide medical care, hospitalization, compensation and such other benefits as the board may deem necessary for regularly authorized volunteer civilian defense workers suffering injury arising out of and in the course of their activities as such civilian defense workers.

The board of supervisors shall have the powers and duties provided in section 3.500.

2.102 Powers in Time of Disaster

To provide for the continuance or restoration of local government in the event of a disaster which renders unavailable a majority of its members, the board of supervisors shall have those powers that are conferred by the general law of the State of California pertaining to the preservation of local government, notwithstanding anything to the contrary contained in this charter.

Chapter Two: Organization

2.200 Meetings

At twelve o'clock noon on the 8th day of January next following their election, the newly elected and continuing members of the board of supervisors shall meet at the legislative chamber in the City Hall, and thereafter regular meetings shall be held as fixed by resolution.

The meetings of the board shall be held in the City Hall, provided that, in case of emergency, the board, by resolution, may designate some other appropriate place as its temporary meeting place.

Notice of any special meeting shall be published at least twenty-four hours in advance of such special meeting.

2.201 Calendars

A written calendar of the business scheduled for each meeting of the board of supervisors or any standing or special committee comprised of board members and established by the board shall be prepared and available to the public before each meeting.

Summaries of board and committee calendar items of general public interest, as determined by the clerk of the board, and a statement

of where and when copies of proposed ordinances and resolutions may be obtained, shall be published commencing at least thirty-six hours before the commencement time of each regular meeting and at least eighteen hours before the commencement time of each special meeting. The board may also provide for additional publicity whenever it determines the public interest would be served.

2.202 President and Committees of the Board

The supervisors constituting the new board shall, on January 8, 1932, and every second year thereafter, elect one of their number as president of the board for a two-year term. The president shall preside at all meetings, shall appoint all standing and special committees of the board and shall have such other powers and duties as the supervisors may provide.

2.203 Clerk of the Board

Subject to the civil service provisions of this charter the board of supervisors shall appoint a clerk, who shall be designated as clerk of the board of supervisors. The clerk shall, ex-officio, be clerk of the board of equalization. The clerk shall have charge of the office and records of the board and its committees, and the personnel employed to handle the business, affairs and operation of the board, its committees and members when engaged in official duty. The clerk shall be the appointing officer for such personnel, subject to the civil service provisions of this charter. The clerk shall keep a journal of proceedings of the board and files of all ordinances and resolutions and properly index the same. He shall be responsible for the publication, as required by law, of ordinances, resolutions and other matters acted on by the board for which publication is specified. He shall have such other duties and responsibilities as the board shall prescribe.

2.203-1 Budget Analyst

Notwithstanding any other provisions or limitations of this charter, there shall be a budget analyst for the board of supervisors, who shall be appointed and removed by the board. Such appointment shall be made solely upon the basis of qualifications by education, training and experience for the position to be filled. He shall be responsible for such duties and responsibilities as the board shall prescribe. *(Added 1972)*

Chapter Three: Legislation

2.300 Action by Resolution or Ordinance

Action by the board of supervisors shall be by ordinance or resolution in writing introduced by a member or by a committee of said board and passed or adopted by a majority of all the members of the board at each reading. Every legislative act shall be by ordinance. The enacting clause of all ordinances shall be, "Be it ordained by the people of the City and County of San Francisco." Every ordinance and resolution, except ordinances making appropriations, shall be confined to one subject which shall be clearly expressed in the title, and ordinances making annual or supplemental appropriations shall be confined to the subject of appropriations.

If any subject is embraced in an ordinance and is not expressed in the title thereof, the ordinance shall be void only as to so much thereof as is not expressed in the title. Any ordinance may be amended by an ordinance amending or repealing the particular sections thereof or adding sections thereto.

An ordinance shall be passed by the board of supervisors only after reference to and report thereon from committee, unless it be an ordinance prepared and reported out by committee, and after two readings and votes at separate meetings of the board, which meetings shall be at least five days apart; provided, however, that as to an emergency measure as defined in section 2.301, reference to committee or the readings and votes at separate meetings may be waived by a three-fourths vote of all members of the board. The existing or impending emergency as defined in such ordinance shall be declared by specific section in such emergency ordinance. The annual appropriation ordinance shall be passed only after two readings, not less than five days apart, and the second or final passage shall be not less than fifteen days after the introduction of each ordinance.

No ordinance granting a franchise shall be finally passed within ninety days of its introduction.

No resolution shall be adopted by the board of supervisors on the date of its introduction and without reference to committee, except by the unanimous consent of the supervisors present.

Except as otherwise provided in this charter, or by ordinance, notice of the title or the purport and subject matter of each proposed ordinance which is introduced and referred to committee shall be published within three days after its presentation to the board and a copy of such proposed ordinance shall be kept available for inspection in the office of the clerk of the board.

Each ordinance required to be included in the municipal code shall be printed promptly after final passage, and copies shall be made available to the public.

The vote on all ordinances and resolutions upon each reading shall be by ayes and noes. The vote by ayes and noes on all measures shall be recorded in the journal of the proceedings of the board.

To amend an ordinance which has proceeded to second reading shall require proceeding de novo.

Any ordinance or resolution waiving, or authorizing the waiving, by the city and county of the benefit of any statute of limitation of a state, or of the United States, available to the city and county in any action or proceedings against it shall require for its passage a three-fourths vote of all members of the board of supervisors on each reading.

2.301 Emergency Ordinances

No ordinance affecting franchises, grants, bond issues or the sale, lease or purchase of land shall ever be passed as an emergency measure, and the people by initiative or referendum ordinance may further restrict the matters that may be passed as emergency measures. Immediate necessary preservation of public peace, property, health or safety, provision for the uninterrupted operation of any city and county department or office or action required to comply with time limitations as established by law, shall be emrgencies within the meaning hereof; provided, however, that such emergency shall actually exist and shall be specifically stated and defined in such ordinance, and shall be specifically voted on as provided in section 2.300 of this charter.

2.302 Action by the Mayor

Each proposed resolution or ordinance voted on by the supervisors and failing of passage and each ordinance or resolution adopted by the supervisors shall, within twenty-four hours of such action, be transmitted to the mayor by the clerk of the board, with appropriate notation of the action of the board thereon. Any resolution acted upon by the board of supervisors by unanimous consent of those present on the date of the introduction of such resolution and any ordinance adopted by the board as an emergency measure shall be acted upon by the mayor within three days after receipt thereof by him from the clerk of the board. All other ordinances or resolutions shall be acted upon by the mayor within ten days of such receipt.

The mayor shall either approve each resolution or ordinance adopted by the supervisors by signing and returning same to the clerk of the board within the time limit, or he shall disapprove and veto any resolution or ordinance, or veto or reduce any separate appropriation item therein and shall return each such resolution or ordinance to the clerk of the board with his written objections within the

time limit. His failure to make such return shall constitute approval and such ordinance or resolution shall take affect without the mayor's signed approval. The clerk of the board shall note such fact on the official copy of such resolution or ordinance. If any separate appropriation item in any resolution or ordinance is vetoed or reduced by the mayor as herein provided the remainder of any such ordinance or resolution may be approved by the mayor and, if not specifically approved by the mayor, shall take effect without such approval and shall be so noted by the clerk of the board.

In the event of any absence of the mayor for which he or the board of supervisors has failed to designate an acting mayor, no resolution or ordinance adopted by the board of supervisors shall take effect by reason of the failure of the mayor to approve, or disapprove, and return such resolution or ordinance within the time limits applicable thereto, and, in such case, the time periods or limitations as fixed by this section shall not start until an acting mayor is appointed by the mayor or elected by the supervisors, as in this charter provided, or the return of the mayor.

Any proposed resolution or ordinance voted on by the board of supervisors and failing of passage shall be reconsidered by the board on the written request of the mayor, stating his reasons therefor, filed with the clerk of the board by the mayor within ten days of the board's action on such resolution or ordinance. The board shall reconsider such measure at its convenience, but not later than thirty days after the filing of the mayor's request therefor.

2.303 Enactment over Veto

The board of supervisors may reconsider any resolution or ordinance vetoed or disapproved, or any separate appropriation item vetoed or reduced by the mayor, and if, after such reconsideration, two-thirds of all the members of the board shall vote in favor of passage thereof, it shall become effective notwithstanding the mayor's veto. If a larger vote is required for the adoption of a measure by the provisions of this charter, such larger vote shall be required to overcome the veto of the mayor. The vote of reconsideration of each such vetoed resolution, ordinance or separate appropriation item therein shall be taken at the convenience of the board. If the ordinance, resolution or separate appropriation item is not passed over the mayor's veto within thirty days, the measure or item shall be lost.

2.304 Effective Date; Final Enactment or Adoption

No ordinance which is subject to the referendum provisions of this charter shall become effective until thirty days after its passage. Ordinances granting any public utility franchise or privilege shall not become effective until sixty days after their passage. Ordinances enacted by a three-fourths vote of all members of the board as an emergency measure as defined in section 2.301 and all other ordinances not subject to the referendum provisions of this charter, shall become effective upon passage.

2.305 Notice of Enactment or Adoption; Certification

All ordinances, after final passage or upon their becoming effective shall be certified by the clerk of the board and recorded in a book kept for that purpose, and resolutions adopted shall be certified and recorded in like manner. Notice that an ordinance has been passed for second reading, that an ordinance has been finally passed, and that a resolution has been adopted, together with a statement of where copies may be obtained, shall be published once within five days of such passage for second reading, final passage or adoption.

2.306 Codification of Ordinances; Printing of Charter

Ordinances previously adopted and continuing in force may be codified or recodified or rearranged by ordinance. Any such ordinance shall supersede and repeal all general ordinances in effect prior thereto and shall be construed to be confined to a single subject.

Any such ordinance shall require printing only in bound or loose leaf book form, which shall constitute publication for all purposes. Any such printing shall contain certificates of the mayor, the clerk of the board of supervisors and the city attorney of the correctness of such codification and printing.

Any such ordinance shall be amended by an ordinance amending or repealing the particular sections thereof or adding sections thereto. For the purposes of any codification or recodification and the validity thereof, the procedure, effect, adoption or enactment and publication of any prior codification, including the enacting ordinance, amendments thereto, the contents of any such code, the certification and publication thereof and all other proceedings and matters in respect thereto, shall be deemed to be valid.

With any printing of the charter, there shall be included initiative ordinances and digests of reported court decisions relating to said charter and ordinances.

The board of supervisors shall have power to enforce by appropriate legislation the provisions of this section.

2.307 Administrative Code

The board of supervisors may enact and provide for printing of an administrative code, which shall specify or detail the powers, duties, methods and procedure in the several departments and offices.

Chapter Four: Relationship with the Executive Branch

2.400 Hearings and Inquiries

The board of supervisors may require such periodic or special reports of departmental costs, operation and expenditures, examine the books, papers, records and accounts of, and inquire into matters affecting the conduct of any department or office of the city and county, and for that purpose may hold hearings, subpoena witnesses, administer oaths and compel the production of books, papers, testimony and other evidence. It shall be the duty of the chief of police to designate a police officer to serve subpoenas. Any person refusing to obey such subpoena and the other requirements hereof, or to produce such books, shall be deemed in contempt and subject to proceedings and penalties as provided by general law in such instances.

2.401 Non-Interference in Administrative Affairs

Except for the purpose of inquiry, the board of supervisors shall deal with the administrative service for which the chief administrative officer is responsible, solely through such officer, and for administrative or other functions for which elective officials or boards or commissions are responsible, solely through the elective official, the board or commission or the chief executive officer of such board or commission concerned.

Neither the board of supervisors, nor its committees, nor any of its members shall dictate, suggest or interfere with appointments, promotions, compensations, disciplinary actions, contracts, requisitions for purchases or other administrative recommendations or actions of the chief administrative officer, or of department heads under the chief administrative officer, or under the respective boards and commissions. The board of supervisors shall deal with administrative matters only in the manner provided by this charter, and any dictation, suggestion or interference herein prohibited on the part of any supervisor shall constitute official misconduct; provided, however, that nothing herein contained shall restrict the power of hearing and inquiry as provided in this charter.

ARTICLE III

THE EXECUTIVE BRANCH

Chapter One: Mayor

3.100 Functions, Powers and Duties

The mayor shall be the chief executive officer of the city and county upon whom process issued by authority of law shall be served. He shall be an elective officer and his compensation shall be fixed in accordance with the salary standardization provisions of this charter.

He shall furnish an official bond in the sum of twenty-five thousand dollars ($25,000).

He shall appoint, and at his pleasure may remove, an executive secretary and one confidential secretary, and one stenographer. The board of supervisors may annually appropriate additional sums to be expended by the mayor for purposes and duties incidental to the administration of the office of mayor, which shall be subject to the provisions of this charter relative to appropriations and the payment of claims.

He shall, at the first meeting of the board of supervisors in October of each year, communicate by message to the supervisors a general statement of the condition of the affairs of the city and county, and recommend the adoption of such measures as he may deem expedient and proper.

The mayor shall be responsible for the enforcement of all laws relating to the municipality and for the review and submission of the annual executive budget; he shall supervise the administration of all departments under boards and commissions appointed by him; he shall receive and examine, without delay, all complaints relating to the administration of the affairs of the city and county, and immediately inform the complainant of findings and actions thereon; and he shall co-ordinate and enforce co-operation between all departments of the city and county. The mayor shall have the power to postpone final action on any franchise that may be passed by the supervisors until such proposed franchise shall have been voted on at the next election.

The mayor shall appoint such members of boards or commissions and other officers as provided by this charter.

He shall appoint for the unexpired term of the office vacated, a qualified person to fill any vacancy occurring in any elective office.

The mayor shall have a seat but no vote in the board of supervisors and in any board of commission appointed by him, with the right to

report on or discuss any matter before such board or commission concerning the departments or affairs in his charge. He shall have power to designate a member of the board of supervisors to act as mayor in his absence. Should he fail, neglect or refuse so to do, the supervisors shall elect one of their number to act as mayor during his absence. When a vacancy occurs in the office of mayor, it shall be filled for the unexpired portion of the term by the supervisors. In case of a disaster which causes the mayor to be absent or unavailable and the supervisors for any reason whatsoever are unable to elect one of their number to act as mayor or to fill any vacancy that might occur in the office of mayor, the following persons shall act as mayor in the order of succession hereinafter designated: (1) president of the board of supervisors, (2) chairman of the finance committee of the board of supervisors, (3) senior member of the board of supervisors, who is that member having the greatest number of years of service as a member of the board, and in the event that one or more members have equal seniority then by alphabetical order of surname among such members, and (4) chief administrative officer. Said person so designated shall act as mayor during such period of absence or unavailability of the mayor until such time as the supervisors can take appropriate action either to elect an acting mayor or to fill the vacancy as the case may be. Every person who has served as mayor of the city and county, so long as he remains a resident thereof, shall have a seat in the board of supervisors and may participate in its debates, but shall not be entitled to a vote or to compensation.

In case of public emergency involving or threatening the lives, property or welfare of the citizens, or the property of the city and county, the mayor shall have the power, and it shall be his duty, to summon, organize and direct the forces of any department in the city and county in any needed service; to summon, marshal, deputize or otherwise employ other persons, or to do whatever else he may deem necessary for the purpose of meeting the emergency. The mayor may make such studies and surveys as he may deem advisable in anticipation of any such emergency.

3.101 Non-Interference in Administrative Affairs

Except for the purpose of inquiry, the mayor shall deal with the administrative service for which the chief administrative officer is responsible, solely through such officer, and for administrative or other functions for which elective officials or boards or comissions are responsible, solely through the elective official, the board or commission or the chief executive officer of such board or comission concerned.

Chapter Two: Chief Administrative Officer

3.200 Appointment; Qualifications

The mayor shall appoint a qualified person as chief administrative officer, subject to confirmation and approval by the board of supervisors. The appointee shall have been a resident of the State of California for at least five years immediately preceding his appointment. The requisite qualifications of such appointee shall be administrative and executive ability and experience for the position to be filled.

He shall be subject to suspension and removal in the same manner as elective officers. He shall also be subject to removal by a vote of not less than two-thirds of the board of supervisors, on the basis of written charges, and, if he so request, only after a public hearing on such charges before the board of supervisors not less than five days nor more than fifteen days after the filing thereof, and prior to the date on which the supervisors shall vote on the question of his removal, but on the filing of written charges, and pending and during such hearing, the supervisors, by majority vote, may suspend him from office. The written charges and any reply thereto by the chief administrative officer shall be entered at length in the journal of the board of supervisors. The action of the board of supervisors in removing the chief administrative officer shall be final.

3.201 Functions, Powers and Duties

The chief administrative officer shall be responsible to the mayor and to the board of supervisors for the administration of all affairs of the city and county that are placed in his charge by the provisions of this charter and by ordinance, and to that end he shall have power and it shall be his duty to exercise supervision and control over all administrative departments which are under his jurisdiction; to appoint the heads of departments under his control and the members of advisory and other boards provided by this charter or by ordinance to be appointed by the chief administrative officer; to prescribe general rules and regulations for the administrative service under his control; to have a voice but no vote in the board of supervisors, with the right to report on or to discuss any matter before the said board concerning the affairs of the departments in his charge; to make such recommendations and propose such measures to the mayor, the board of supervisors, or committees thereof, concerning the affairs of the city and county in his charge as he may deem necessary; to coordinate the functioning of the several departments of the city and county charged with powers and duties relating to control of traffic; and to provide for the budgeting and control of publicity and advertising expenditures of the city and county.

The chief administrative officer may designate an officer or an employee in any department under his jurisdiction to exercise the powers and perform the duties of any county office not specifically designated by this charter.

The chief administrative officer may designate the recorder to exercise the powers and perform the duties of the registrar of voters and to occupy the offices of registrar of voters and recorder, receiving a single salary therefor to be fixed in accordance with the salary standardization provisions of this charter.

Chapter Three. Controller

3.300 Appointment; Qualifications

There shall be a controller, who shall be appointed by the mayor, subject to confirmation and approval by the board of supervisors. Such appointment shall be made solely on the basis of qualifications by training and experience for the position to be filled. He may be removed by the supervisors by a two-thirds vote.

3.301 General Powers and Duties

The controller shall have the powers and duties of a county auditor, except as in this charter otherwise provided. He shall be the auditor and chief accounting officer of the city and county, and shall exercise general supervision over the accounts of all officers, commissions, boards and employees of the city and county charged in any manner with the receipt, collection or disbursement of city and county funds or of other funds, in their capacity as city and county officials or employees. He shall have the power and duty of prescribing the method of installing, keeping and rendering accounts of, and the financial reports to be rendered by, the several officers, boards and employees of the city.

The controller shall keep accounts showing the financial transactions of all departments, offices and other subdivisions of the city and county. Such accounts and the accounting procedure shall be adequate to record (a) all budgeted revenues and appropriations, together with additions or transfers thereto, and to show at all times the amount of encumbrances, expenditures or transfers therefrom, and the balances therein; (b) all revenues accrued and liabilities incurred; (c) all cash receipts and disbursements; and (d), in general, all transactions affecting the acquisition, custody or disposition of values.

It shall be the duty of the controller to determine, where practicable, the unit cost of work done by the city and county for

the purpose of determining whether similar work could be done under public contract at a lower cost. The controller shall devise adequate systems of internal check of all departments and offices of the city and county relative to the custody, collection or disbursements of moneys.

3.302 Controller's Reports

The controller shall annually make a complete financial report which shall be audited and distributed as provided in section 3.305 of this charter. The controller shall also make a quarterly report not later than the 25th day of the month succeeding the last preceding quarter, showing a summary statement of revenues and expenditures for the preceding quarter and for that portion of the fiscal year ending on the last day of such preceding quarter. Such statement shall include all general and funding accounts and shall be detailed as to assets, liabilities, income, expenditures, appropriations and funds, in such manner as to show the financial conditions of the city and county and of each department, office, bureau or division thereof, for that portion of the fiscal year to and including the preceding quarter, and with comparative figures for the similar period in the preceding fiscal year. The controller shall at the same time prepare statements showing at the end of each quarter the cash position of the city and county (and the unencumbered balance in each fund). He shall also prepare quarterly for each of the several funds a summary of the resources available and estimated to be collectible, obligations authorized and estimated to be expendable, and surplus in such a manner as to show the estimated cash position of each fund at the end of the fiscal year. He shall also prepare monthly and transmit to all department heads concerned, reports showing the allowances, expenditures, encumbrances and unencumbered balances of each revenue and expenditure appropriation. A copy of each such quarterly report and special fiscal reports as requested, shall be transmitted to the mayor, the board of supervisors, the chief administrative officer, and kept on file in the controller's office.

3.303 Audits

The controller shall audit the accounts of all boards, officers and employees of the city and county charged in any manner with the custody, collection, or disbursement of funds. The controller shall audit monthly all accounts of money coming into the hands of the treasurer. He shall make an audit monthly of each departmental revolving fund authorized by this charter or by the board of supervisors.

When requested by the mayor, the board of supervisors, the chief

administrative officer, or any board or commission for its own department, he shall audit the accounts of any officer or department, and on the death, resignation, removal, expiration of term or retirement of the head of any department or office, or any officer or employee charged with the receipt, collection or disbursement of money, shall make an audit of the accounts of such department, officer or employee.

3.304 Custody and Examination of Bonds

The controller shall be the custodian of all official bonds excepting the bond of the controller, which shall be in the custody of the mayor. The controller must at least once in every six months examine all official bonds and investigate the sufficiency and solvency of the sureties thereon, and forthwith report in writing the facts to the mayor. Upon receipt of such report, the mayor shall take such action as shall be necessary to protect the city and county, and may require new bonds and may suspend any officer or employee until a sufficient bond is filed and approved. The mayor shall make similar periodic examination of the controller's bond.

3.305 Audit of Controller's Books

The board of supervisors shall order an annual audit of the controller's books of accounts, records and transactions, to be made by one or more certified public accountants. The report of such auditor or auditors for the fiscal year shall be printed and a copy thereof furnished to the mayor, each member of the board of supervisors, the chief administrative officer, and the controller, and to such citizens as may apply therefor.

Chapter Four: Other Elected Officials

3.400 Assessor

The assessor shall be an elective officer. He shall furnish an official bond in the sum of fifty thousand dollars ($50,000). He shall appoint, and at his pleasure may remove, one chief assistant or deputy and one confidential secretary.

3.401 City Attorney

(a) The city attorney shall be an elective officer. He shall furnish an official bond in the sum of ten thousand dollars ($10,000). He shall appoint, and at his pleasure may remove, all assistants and employees of his office. He shall devote his entire time and attention to the duties of his office. He must, at the time of his election, be an elector of the city and county; qualified to practice in all the courts

of the state, and he must have been so qualified for at least ten years next preceding his election.

The city attorney must represent the city and county in all actions and proceedings in which it may be legally interested, or, for or against the city and county, or, any officer of the city and county in any action or proceeding, when directed so to do by the supervisors, except where a cause of action exists in favor of the city and county against said officer. Whenever any cause of action exists in favor of the city and county, the city attorney shall commence the same when within his knowledge or when directed so to do by the supervisors. He shall give his advice or opinion in writing to any officer, board or commission of the city and county when requested. Except as otherwise provided in this charter, he shall not settle or dismiss any litigation for or against the city and county, unless, upon his written recommendation, he is ordered so to do by ordinance.

The city attorney shall prepare, or approve as to form, all ordinances before they are enacted by the supervisors. He shall approve, by endorsement in writing, the form of all official or other bonds required by this charter or by ordinance before the same are submitted to the proper commission, board or office for final approval, and no such bonds shall be finally approved without such approval as to form by the city attorney. Except as otherwise in this charter provided, he shall prepare in writing the draft or form of all contracts before the same are executed on behalf of the city and county. He shall examine and approve the title of all real property to be acquired by the city and county.

He shall keep on file in his office copies of all written communications and opinions, also all papers, briefs and transcripts used in matters wherein he appears; and books of record and registers of all actions or proceedings in his charge in which the city and county or any officer or board thereof, is a party or is interested.

(b) The duties of the city attorney in connection with the bureau of delinquent revenue collection shall be transferred to and performed by the attorney for said bureau who shall be subject to the civil service provisions of this charter.

3.402 District Attorney

(a) The district attorney shall be an elective officer. He shall furnish an official bond in the sum of ten thousand dollars ($10,000). He must, at the time of his election, be qualified to practice in all the courts of this state and must have been so qualified for at least five years next preceding his election. He shall appoint, and at his pleasure may remove, all assistants and employees in his office.

The district attorney, either in person or by his assistants, shall prosecute all criminal cases in the municipal and superior courts, draw all complaints, and issue warrants for the arrest of persons charged with crime who are to be prosecuted in such courts.

Any amount required by the district attorney from time to time from the district attorney's special fund shall be requisitioned by the district attorney, stating the general purpose for which required, whereupon the controller shall draw his warrant therefor and the claim be paid as provided for payment of other warrants by the treasurer. All such sums may be used by the district attorney solely as provided by general law and he shall file vouchers with the controller at the end of each fiscal year showing what disposition he has made of any moneys received by him from such fund and the particular purpose for which it was disbursed, provided that, if a criminal proceeding be pending or under investigation, vouchers for moneys disbursed in such proceeding or investigation, need not be filed until the trial of the criminal proceeding be ended or the investigation concluded. No portion of the fund shall be used for compensation or remuneration of full time assistants or employees.

(b) There shall be a warrant and bond office. The district attorney shall appoint an assistant to have charge of the warrant and bond office to be designated warrant and bond deputy, and such additional assistants and clerks as may be provided by the budget and appropriation ordinances. No person shall be appointed warrant and bond deputy who is not at the time of his appointment qualified to practice law in all the courts of this state. The warrant and bond deputy shall keep his office open continuously night and day for the transaction of business; he shall draw and approve with his signature all complaints and warrants in criminal actions to be prosecuted in the municipal courts and any inferior court established by law in this city and county and possessing criminal jurisdiction; he shall have custody of all bail bonds and appeal bonds taken in such courts.

The warrant and bond deputy may issue bail bonds and appeal bonds and order the discharge from custody of the persons for whom such bonds are approved by a magistrate. He may fix cash bail in misdemeanor cases where arrests are made without warrants and may take cash bail in all cases arising in the municipal court and any inferior court established by law in this city and county and possessing criminal jurisdiction, and may order the discharge from custody of the persons for whom cash bail is deposited with him.

In the matter of fixing bail and ordering the release of prisoners the warrant and bond deputy shall be subject to the judges of the municipal court and the judges of any court in the city and county empowered by law to act as magistrates.

3.403 Public Defender

The public defender shall be an elective officer. He shall furnish an official bond in the sum of ten thousand dollars ($10,000). He must, at the time of his election, be qualified to practice in all the courts of this state and must have been so qualified for at least five years next preceding his election. He shall appoint, and at his pleasure may remove, such assistants and employees in his office as may be provided by budget and appropriation ordinances. He shall immediately upon the request of a defendant who is financially unable to employ counsel, or upon order of the court, defend or give counsel or advice to any person charged with the commission of a crime.

3.404 Sheriff

The sheriff shall be an elective officer. His salary shall be established by salary standardization procedures.

He shall furnish an official bond in the sum of fifty thousand dollars ($50,000). He shall appoint, and at his pleasure may remove, an attorney, one under-sheriff, and one confidential secretary.

3.405 Treasurer

The treasurer shall be an elective officer. He shall furnish an official bond in the sum of two hundred thousand dollars ($200,000). He shall appoint, and at his pleasure may remove, one chief assistant.

3.406 Assistants and Employees in Elective Offices

(a) The elective officers of the city and county may appoint such assistants and employees as are authorized by the supervisors upon the recommendation of the mayor, in the annual budget and annual or supplemental appropriation ordinances, and may discipline and remove the same, subject to the civil service provisions of this charter except as otherwise specifically exempted by the provisions of this charter. Each assistant attorney in the offices of the city attorney, the district attorney and the public defender must, at the time of his appointment, be qualified to practice in all of the courts of the state. The salaries, wages and compensation of every kind and nature, except pensions and retirement allowances, for assistants and employees in such elective offices, shall be fixed as provided by the salary standardization provisions of this charter.

(b) Notwithstanding any other provisions of this charter, occupants of all positions in the office of city attorney and the public defender, except assistant attorneys in the offices of the city

attorney and the public defender, and a confidential secretary for the city attorney and a confidential secretary for the public defender, shall be subject to the civil service provisions of this charter.

(c) Notwithstanding any other provisions of this charter, occupants of all positions in the office of district attorney, except assistant attorneys, one confidential secretary and occupants of positions classified as senior investigator or investigator, shall be subject to the civil service provisions of this charter.

Chapter Five: Administrative Departments, Boards and Commissions

Part One: General Powers and Duties

3.500 Boards and Commissions

Each board and commission appointed by the mayor, or otherwise provided by this charter, shall have powers and duties as follows:

(a) To prescribe reasonable rules and regulations not inconsistent with this charter for the conduct of its affairs, for the distribution and performance of its business, for the conduct and government of its officers and employees, and for the administration, custody and protection of property under its control and books, records and papers appertaining to its affairs. The board of supervisors, by ordinance, may provide that rules and regulations of any board or commission, or general orders of any department head issued by authority of any board or commission that are of general public concern shall be posted or otherwise adequately publicized.

(b) To appoint one of its members as president to hold office for such term as each such board or commission by its rules or regulations, not inconsistent with this charter, may prescribe.

(c) To establish such standing or special committees as it shall deem necessary.

(d) To receive, on behalf of the city and county, gifts, devises and bequests for any purpose connected with or incidental to the department or affairs placed in its charge, and to administer, execute and perform the terms and conditions of trusts or any gift, devise or bequest which may be accepted by vote of the people or by the board of supervisors for the benefit of such department or purpose, and to act as trustees, under any such trust, when so authorized to do by the board of supervisors. The title to all real and personal property now owned or hereafter acquired by gift, devise, bequest or otherwise, by and for the purposes of any board or commission shall vest in the city and county.

(e) To require such periodic or special reports of departmental

operations, costs and expenditures under its control as may be necessary and, exclusive of the board of supervisors, to submit an annual report to the mayor.

(f) To hold meetings at regular fixed dates and at regular meeting places, which dates or places shall not be changed except as in the manner provided by section 2.200 for the meeting times and places of the board of supervisors. All such meetings shall be open to the public.

(g) To hold special meetings for the purposes and in the manner provided by the board of supervisors by ordinacne, provided that no matter may be considered at any special meeting unless specifically designated in the notice calling such special meeting.

(h) To appoint a secretary, a superintendent, or other executive to be the administrative head of the affairs under its control who, unless otherwise specifically provided, shall not be subject to the civil service provisions of this charter, and shall hold office at its pleasure.

(i) To require a bond or other security from each such executive officer and from any employee in such form as the board of supervisors may authorize and in such amount as the mayor, on the recommendation of the controller, may approve, the premiums on such bonds to be paid by the city and county.

A quorum for the transaction of official business shall consist of a majority of all the members of each board or commission, but a smaller number may adjourn from time to time and compel the attendance of absent members in the manner and subject to penalties to be provided by ordinance. A majority, two-thirds, three-fourths, or other vote specified by this charter for any board or commission shall mean a majority, two-thirds, three-fourths, or other vote of all the members of such board or commission. Each board or commission shall keep a record for the proceedings at each meeting and a copy thereof shall be forwarded promptly to the mayor. Except for the purpose of inquiry, each board or commission, in its conduct of administrative affairs under its control, shall deal with such matters solely through its chief executive officer.

Each board or commission relative to the affairs of its own department, shall deal with administrative matters only in the manner provided by this charter, and any dictation, suggestion or interference herein prohibited on the part of any member of a board or commission shall constitute official misconduct; provided, however, that nothing herein contained shall restrict the power of hearing and inquiry as provided in this charter.

3.501 Department Heads

Each elective officer in charge of an administrative office, the

chief executive appointed by each board or commission, the controller, the chief administrative officer, and each department head appointed by the chief administrative officer shall have the powers and duties of a department head, except as otherwise specifically provided in this charter.

Each appointive department head shall be immediately responsible to the chief administrative officer or the board or commission, as the case may be, for the administration of his department, and shall file an annual report and make such other reports, estimates and recommendations at the time and in the manner required by law, or as required by the chief administrative officer, board or commission.

He shall act as the "appointing officer" under the civil service provisions of this charter for the appointing, disciplining and removal of such officers, assistants and employees as may be authorized. On the written recommendation of the department head concerned and the approval of the chief administrative officer, board or commission to whom such department head is responsible, the head of any utility, institution, bureau or other subdivision of such department may be designated as the "appointing officer" for such utility, institution, bureau or other subdivision. Non-civil service appointments and any temporary appointments in any department or subdivision thereof, and all removals therefrom shall be made by the department head or bureau head designated as the appointing officer only with the approval of the chief administrative officer or the board or commission in charge, as the case may be.

He shall issue or authorize all requisitions for the purchase of materials, supplies and equipment required by such department, provided that, on the written approval of the chief administrative officer or the board or commission in charge of any department, the head of any utility, institution, bureau or other subdivision of a department may likewise be vested with such power. Each department head or the head of a utility, institution, bureau or other subdivision of each department shall be responsible for the proper checking of all materials, supplies and equipment ordered for its purposes, and for the approval or disapproval of bills for claims rendered for such materials, supplies or equipment.

The head of any department, through the chief administrative officer or the board or commission in charge thereof shall recommend to the board of supervisors such ordinances as may be required to carry out the powers vested and the duties imposed, and to establish or readjust fees or charges for permits issued to or work performed for persons, firms or corporations when these are subject to his or its jurisdiction.

Each department head may suggest the creation of positions

subject to the provisions of this charter, and may reduce the forces under his jurisdiction to conform to the needs of the work for which he is responsible, any other provisions of this charter to the contrary notwithstanding.

The mayor, the chief administrative officer, or the board or commission concerned, on the recommendation of any department head, or on his or its own motion, may combine or may transfer and redistribute among departments or offices under his or its authority, respectively, any function or duty assigned to or continued by this charter in any department.

Part Two: Administrative Departments under the Chief Administrative Officer

3.510 Finance and Records, Purchasing, Real Estate, Public Works, Electricity, Public Health, and County Agricultural Departments; Health Advisory Board; and Coroner's Office

The functions, activities and affairs of the city and county that are hereby placed under the direction of the chief administrative officer by the provisions of this charter, and the powers and duties of officers and employees charged with specific jurisdiction thereof, shall, subject to the provisions of section 11.102 and section 3.501 of this charter, be allocated by the chief administrative officer, among the following departments:

Department of Finance and Records, which shall include the functions and personnel of the offices of tax collector, registrar of voters, recorder, county clerk and public administrator, and shall be administered by a director of finance and records who shall be appointed by the chief administrative officer and hold office at his pleasure. The tax collector shall have power to examine the books of any business for which a license is issued and a fee charged on the basis of the receipts of such business, and for these purposes shall have the power of inquiry, investigation and subpoena, as provided by this charter.

The public administrator shall appoint and at his pleasure may remove an attorney. He may also appoint such assistant attorneys as may be provided by the budget and annual appropriation ordinance.

Purchasing Department, which shall include the functions and personnel of the bureau of supplies, the operation of central stores and warehouses, and the operation of central garages and shops, and shall be administered by the purchaser of supplies who shall be appointed by the chief administrative officer and shall hold office at his pleasure.

Real Estate Department, which shall include the functions and

personnel of the office of the right-of-way agent and also the control, management and leasing of the exposition auditorium.

Department of Public Works, which shall include the functions and personnel of the telephone exchange and which shall be in charge of and administered by the director of public works, who shall be appointed by the chief administrative officer and shall hold office at his pleasure.

The director of public works shall appoint a city engineer, who shall hold office at the pleasure of said director. He shall possess the same power in the city and county in making surveys, plats and certificates as is or may from time to time be given by law to city engineers and to county surveyors, and his official acts and all plats, surveys and certificates made by him shall have the same validity and be of the same force and effect as are or may be given by law to those of city engineers and county surveyors.

All examinations, plans and estimates required by the supervisors in connection with any public improvements, exclusive of those to be made by the public utilities commission, shall be made by the director of public works, and he shall, when requested to do so, furnish information and data for the use of the supervisors.

The department of public works shall semi-annually notify the tax collector of the amount of each assessment that becomes delinquent and the lot and block number against which such assessment is levied, and it shall be the duty of the tax collector to note such delinquency on each annual tax bill.

The department of public works shall have powers and duties relating to street traffic, subject to the laws relating thereto, as follows: (a) to cooperate with and assist the police department in the promotion of traffic safety education; (b) to receive, study and give prompt attention to complaints relating to street design or traffic devices or the absence thereof; (c) to collect, compile, analyze and interpret traffic and parking data and to analyze and interpret traffic accident information; (d) to engage in traffic research and traffic planning; and (e) to cooperate for the best performance of these functions with any department and agency of the city and county and the state as may be necessary.

The department shall submit to the traffic bureau of the police department, for its review and recommendation, all proposed plans relating to street traffic control devices; provided, however that the bureau may waive submission and review of plans of particular devices designated by it. Failure of the said traffic bureau to submit to the department its recommendation on any proposed plan within fifteen (15) days after receipt shall be considered an automatic approval of said traffic bureau. The department shall not, with

respect to any traffic control devices, implement such plan until the recommendation of the traffic bureau has been reviewed or until the fifteen (15) day period has elapsed.

Department of Electricity, which shall be administered by a chief of department. The premises of any person, firm or corporation may, for the purpose of police or fire protection, be connected with the police or fire signal or telephone system of the city and county upon paying a fair compensation for such connection and the use of the same, provided that any such connection shall require the approval of the chief of the department of electricity and shall not in any way overload or interfere with the proper and efficient operation of the circuit to which it is connected. The conditions upon which such connection shall be made and the compensation to be paid therefor shall be fixed by the board of supervisors by ordinance upon the recommendation of the chief of the department.

Department of Public Health, which shall be administered by a director of health, who shall be a regularly licensed physician or surgeon in the State of California, with not less than ten years' practice in his profession immediately preceding his appointment thereto. He shall be appointed by the chief administrative officer and shall hold office at his pleasure.

The chief administrative officer shall have power to appoint and to remove an assistant director of public health for hospital services, who shall be responsible for the administrative and business management of the institutions of the department of public health, including, but not limited to, the San Francisco General Hospital, Laguna Honda Home, Hassler Health Home, and the Emergency Hospital Service, and who shall be exempt from the civil service provisions of the charter. The position of assistant director of public health for hospital services shall be held only be a person who possesses the educational and administrative qualifications and experience necessary to manage the institutions of the department of public health.

The director of public health shall have power to appoint and remove an administrator of San Francisco General Hospital, who shall be exempt from the civil service provisions of the charter. The position of administrator shall be held only by a physician or hospital administrator who possesses the educational and administrative qualifications and experience necessary to manage the San Francisco General Hospital.

Health Advisory Board. There is hereby created a health advisory board of seven members, three of whom shall be physicians and one a dentist, all regularly certificated. Members of the board shall serve without compensation. They shall be appointed by the chief administrative officer for terms of four years; provided, however, that those

first appointed shall classify themselves by lot so that the terms of one physician and one lay member shall expire in 1933, 1934 and 1935, respectively, and the term of one member in 1936.

Such board shall consider and report on problems and matters under the jurisdiction of the department of public health and shall consult, advise with and make recommendations to the director of health relative to the functions and affairs of the department. The recommendations of such board shall be made in writing to the director of health and to the chief administrative officer.

Coroner's office, which shall include the functions and personnel of the existing office of coroner as established at the time this charter shall go into effect.

County Agricultural Department, which shall be administered by a county agricultural commissioner and shall include functions established by state law and those assigned to it by or in accordance with provisions of this charter.

Department of Weights and Measures, which shall include the functions and personnel of the office of sealer of weights and measures as established at the time this charter shall go into effect.

Part Three: Department of City Planning

3.520 Establishment

There is hereby established a department of city planning which shall consist of a city planning commission, a director of planning and such employees as may be necessary to carry out the functions and duties of said department.

3.521 Commission; Composition

The city planning commission shall consist of seven members, five of whom shall be appointed by the mayor. The chief administrative officer and the manager of utilities, or their designated deputies, shall be members ex-officio. The terms of appointive members of the commission shall expire one each at twelve o'clock noon on the 15th day of January in the years 1949, 1950, and 1951, and two at said time in the year 1948. Thereafter, the term of each appointive member shall be four years. Present appointees shall continue in office without change of incumbency for the existing terms thereof. The mayor shall fill all vacancies in office of appointive members of the commission occurring either during or at the expiration of terms. Ex-officio members of the commission shall serve as such without compensation. The compensation of appointive members of said commission shall be fifteen dollars ($15) for each meeting of the commission actually attended by said members, provided that the

aggregate amount paid all the members shall not exceed five thousand dollars ($5,000) per year.

3.522 Director of Planning

The city planning commission shall appoint a director of planning who shall hold office at its pleasure and who shall be a person of adequate technical training and administrative experience in city planning. The director of planning shall be the administrative head and appointing officer of the department of city planning. The position of director of planning shall not be subject to any provisions of this charter prescribing a residence qualification for officers or appointees, provided, however, that during his incumbency the appointee to the position shall reside in the city and county.

3.523 Secretary of Commission; Consultants

The city planning commission may appoint a secretary, which appointment shall not be subject to the civil service provisions of this charter. Subject to the provisions of sections 6.302, 6.312 and 6.313 of this charter, the commission may also contract with architects, city planners, engineers, or other consultants for such services as it may require.

3.524 The Master Plan; Scope and Content

It shall be the function and duty of the city planning commission to adopt and maintain, including necessary changes therein, a comprehensive, long-term, general plan for the improvement and future development of the city and county, to be known as the master plan. The master plan shall include maps, plans, charts, exhibits, and descriptive, interpretive, and analytical matter, based on physical, social, economic, and financial data, which together present a broad and general guide and pattern constituting the recommendations of the commission for the coordinated and harmonious development, in accordance with present and future needs, of the city and county and of any land outside the boundaries thereof which in the opinion of the commission bears a relation thereto.

The master plan shall show the general location, character, and extent of existing and proposed street railway, bus, railroad, air, water, and other transportation routes and terminals, public ways, grounds, and open spaces, and the general location of major buildings, structures, and facilities constructed thereon or proposed, and shall include a land-use plan showing the proposed general distribution and the general location and extent of housing, business, industry, recreation, education, and other categories of public and private uses of land, and recommended standards of population

density and building intensity, with estimates of population growth and a general description of the amount and general classes of industrial, business and other economic activities for which the commission deems that space should be supplied within the territory covered by the plan, all correlated with the land-use plan. It shall include proposals for the acquisition, extension, widening, narrowing, removal, relocation, vacation, abandonment, sale, or change in the use of any of the foregoing public ways, routes, grounds, open spaces, buildings, or structures.

In the preparation of the master plan or any amendment thereto, the department of city planning is authorized to make or cause to be made such investigations, studies, maps, charts, exhibits, and reports as it may deem to be required.

3.525 Amendment of the Master Plan

The master plan may be amended to include at any time modifications and extensions thereof. Before the city planning commission may adopt any substantial extensions of the master plan adopted prior to the passage of this amendment or any substantial amendment or addition thereto which in the judgment of the commission constitutes a major alteration in the plan, it shall hold at least one public hearing thereon, notice of the time and place of which shall be given by at least one publication in the official newspaper of the city and county not less than twenty days before the day of hearing. Adoption of the master plan or portions thereof or amendments, extensions or additions thereto shall be by resolution carried by the affirmative votes of not less than a majority of all the members of the commission. Such resolutions shall refer expressly to the reports, plans, or descriptive and other matter intended to form the whole or part of the plan, and the action taken shall be recorded on such documents and an attested copy thereof shall be certified to the mayor and the board of supervisors.

3.526 Implementation of the Master Plan

The department of city planning may make such reports and recommendations to the mayor, the board of supervisors, and other officers and agencies as it may deem necessary to secure understanding and a systematic effectuation of the recommendations of the master plan. The department shall have the power to promote public interest in and understanding of the master plan and may publish and distribute copies of the plan or any portion thereof or of any report and may employ such other means of publicity and education as it may deem to be in the public interest.

3.527 Mandatory Referrals

No ordinance or resolution which deals with the acquisition, extension, widening, narrowing, removal, relocation, vacation, abandonment, sale or change in the use of any public way, transportation route, ground, open space, building, or structure, the subject matter of which has not been previously reported on by the department of city planning in accordance with the provisions of sections 3.527, 6.202, 6.203 or 6.205 of this charter, shall be adopted by the board of supervisors unless and until such ordinance or resolution shall have first been referred to the department of city planning and a report rendered thereon regarding conformity of the matter involved to the master plan. If conflict exists, the report shall give the particulars of the differences between the proposal and the master plan.

It shall be the duty of the department of city planning to render its report in writing upon any ordinance or resolution to the board of supervisors and to the controller within thirty days after the date of such referral unless a longer period is granted by the board of supervisors. The department of city planning shall report to the board of supervisors within the time limits herein established. All plats of new subdivisions of land, or replats of subdivisions laid out in building lots after December 26, 1946 and located within the city and county limits, shall be submitted in tentative form to the department of city planning and the city planning commission shall report its recommendations thereon in writing to the agnecy responsible therefor, as provided by ordinance. Should major changes occur after acceptance of the tentative map, the final plat shall be submitted for futher report thereon to the department of city planning.

All project plans for public and private housing and publicly-assisted private housing, and for the clearance, rehabilitation and redevelopment of blighted areas, located within the city and county limits, shall be submitted to the department of city planning and the city planning commission shall report its recommendations thereon in writing to the agency responsible therefor. Should major changes thereafter be proposed, those changes shall be submitted to the department of city planning for further report thereon.

3.528 Capital Improvement Program

The department of city planning shall be governed by the provisions of section 6.202 of this charter pertaining to capital improvement projects.

3.529 Advice on Physical Improvement and Development

The department shall act in an advisory capacity to the board of

supervisors and other departments, commissions and agencies of the city and county in any matter affecting the physical improvement and development of the city and county. All public officials shall upon request furnish to the department of city planning such information as it may require for its work and the department of city planning shall furnish to all departments and officals of the city and county such information as said departments and officials may require concerning the master plan. In general, the department shall have such powers as may be necessary to enable it to fulfill its functions.

Part Four: Police Department

3.530 Composition of Department; Commission

The police department shall consist of a police commission, a chief of police, a police force and such clerks and employees as shall be necessary and appointed pursuant to the provisions of this charter, and shall be under the management of a police commission consisting of three members, who shall be appointed by the mayor, and each of whom shall receive an annual compensation of twelve hundred dollars ($1,200). The term of each commissioner shall be four years, commencing at twelve o'clock, noon, on the 15th day of January in the years 1945, 1946 and 1948, respectively.

The police commissioners shall be the successors in office of the police commissioners holding office in the City and County on January 3, 1972, and shall have all the powers and duties thereof, except as otherwise in this charter provided. They shall have the power and duty to organize, reorganize and manage the police department. They shall by rule and subject to the fiscal provisions of the charter, have power to create new or additional ranks or positions in the department which shall be subject to the civil service provisions of the charter; provided that the police commission subject to the recommendation of the civil service commission and the approval of the board of supervisors may declare such new or additional ranks or positions to be exempt from the civil service provisions of the charter. If the civil service commission disapproves any such exemption, the board of supervisors may approve such exemptions by a majority vote of the members thereof. The police commission may in their discretion designate the rank or ranks from which appointments to such exempt ranks or positions shall be made. Appointments to any non-civil service rank or position above the rank of captain as may be created hereunder shall be designated only from the civil service rank of captain. If any new or additional rank or position is created pursuant hereto pending the adoption of salary standards for such

rank or position, the police commission shall have power to recommend the basic rate of compensation therefor to the board of supervisors and said board of supervisors shall have the power to fix the rate of compensation for said new rank or position and it shall have the power, and it shall be its duty, without reference or amendment to the annual budget, to amend the annual appropriation ordinance and the annual salary ordinance to include the provisions necessary for paying the basic rate of compensation fixed by said board of supervisors for said new rank or position for the then current fiscal year. Thereafter the compensation for said new rank or position shall be fixed as provided for in section 8.405 of this charter; provided, however, nothing contained in this section shall be deemed to interfere with the provisions of section 8.405 of this charter relating to parity or compensation for police officers and firemen for the fourth year of service and thereafter. The police commission shall also have power to establish and from time to time change the order or rank of the non-civil service ranks in the police department.

All positions in the police department legally authorized shall be continued, and incumbents therein legally appointed thereto shall be continued as officers and employees of the department under the conditions governing their respective appointments and except as otherwise provided in this charter.

The effective date of this section as amended herein shall be July 1, 1972.

3.531 Ranks in the Department

The several ranks or positions in the department shall be as follows: chief of police, captains, criminologists, lieutenants, inspectors, sergeants, assistant inspectors, police surgeon, police officers, police patrol drivers and women protective officers, and such other ranks or positions as the police commission may from time to time create as provided for in section 3.530 of this charter. The compensation for these ranks shall be determined as provided in sections 3.530 and 8.405 of this charter.

3.532 Chief of Police

The police commission shall appoint a chief of police who shall hold office at its pleasure.

3.533 Other Executives

Subject to the provisions of section 3.501 of this charter governing the appointment and removal of non-civil service appointees, and without competitive examination, the chief of police shall have

power to appoint a police surgeon; to appoint from among the members of the department holding the civil service rank of captain, a member to any non-civil service rank above the rank of captain as may be created by the police commission pursuant to the provisions of section 3.530 of this charter; and to appoint a member to any non-civil service rank below the rank of captain as may be created by the police commission pursuant to the provisions of section 3.530 from among the members of the department holding the rank or ranks designated by said commission pursuant to the provisions of section 3.530 of this charter.

When any member of the department, detailed to any of the positions above mentioned, shall be removed from said detail or position, he shall be returned to his civil service rank and position, unless removed from the department pursuant to the provisions of section 8.343 of the charter.

No appointment shall be made which would result in a member holding a lower civil service rank or position supervising a member holding a higher civil service rank or position; provided, however, that any member of the department holding a position on the effective date of this amendment whose civil service rank is lower than that specified for such position may be retained in such position subject to the provisions of section 3.501 of this charter, if he has held such position for at least one year prior to the effective date hereof.

The effective date of this section as amended herein shall be July 1, 1972.

3.534 Inspectors

Assignment to the ranks of assistant inspector and inspector in the police department shall be made by the chief of police from among those members of said department holding the ranks of sergeant, police officer or woman protective officer, who have qualified in the following manner: any of the aforesaid members of the police department who has served in the department not less than three years shall be eligible to participate in a competitive examination for the rank of assistant inspector which shall be administered by the civil service commission. Such competitive examination shall primarily pertain to matters concerning the duties of the classifications of assistant inspector and inspector. In addition to the written portion of this examination, participants shall be examined orally by a board composed of three (3) supervisory officers having investigatory experience from those police departments in cities other than San Francisco surveyed under section 8.405 of this charter, who shall be selected by the civil service commission. Rating of the examination

shall be a composite of grades attained in the written examination, the oral examination, and a rating for seniority of service. The written examination shall be given a weight of 75% and the oral examination shall be given a weight of 20%, and seniority of service shall be given a weight of 5%. The civil service commission shall certify to the chief of police a list of certified candidates which shall not be less than the number of current and anticipated vacancies for a two-year period as determined by the chief of police plus twenty-five (25) per cent. Said list shall rank the candidates by order of the composite grade attained in the examination. Said list shall expire every two (2) years following adoption by the civil service commission. The chief of police shall appoint assistant inspectors to fill vacancies in the rank of assistant inspector from the certified list of qualified candidates by order of the grade achieved in the examination; provided, however, if any member of the department appointed as an assistant inspector is a sergeant at the time of the appointment or is appointed a sergeant thereafter, he shall receive the rate of compensation attached to the rank of sergeant.

Assistant inspectors shall serve a six (6) month probationary period. Appointment as inspector shall not be subject to competitive examination. Each inspector shall serve at the pleasure of the chief of police during his first year of service and thereafter may only be removed and returned to his civil service rank in the manner herein provided. In case of vacancy in said rank of inspector the appointment shall be made by the chief of police from among those holding the rank of assistant inspector who have actually served as assistant inspector for at least two years prior to such appointment; provided, however, that in the event there are no assistant inspectors who have actually served as such for at least two years prior to such appointment, the appointment may be made by the chief of police from among those holding the rank of assistant inspector who have completed their six months probationary period prior to such appointment. The chief of police may, from time to time, detail members of the department for performance of duty, without change in rank, in the various units and bureaus of the department.

Inspectors and assistant inspectors shall have the same rights as other members of the department to take competitive examinations from their respective civil service ranks; provided, however, that any member of the department holding the rank of assistant inspector or police officer may take the competitive examination for the rank of sergeant. An inspector or assistant inspector guilty of any offense or violation of the rules and procedures of the police department shall be subject to punishment as provided in section 8.343 of this charter; provided, however, that in addition to the punishments set forth in

section 8.343, an inspector may be demoted to his civil service rank for any offense or violation set forth in said section and after trial and hearing before the police commission as set forth therein.

Members of the police department holding the rank of assistant inspector or inspector respectively on the effective date of this amendment shall be deemed appointed to such rank pursuant to the provisions of this section and thereafter shall hold such rank under the provisions.

Any police officer or sergeant assigned to the bureau of inspectors, the juvenile bureau, the hit and run detail of the traffic bureau, the bureau of special services, the narcotics bureau or the intelligence unit on the effective date of this amendment and who had been so assigned or detailed on or before August 2, 1971, shall be deemed appointed to the rank of assistant inspector pursuant to the provisions of this section and thereafter shall hold such rank under such provisions.

The board of supervisors shall have the power, and it shall be its duty, without reference to the annual budget, to amend the annual appropriation ordinance, and the annual salary ordinance for the fiscal year 1971-1972, to include the provisions necessary for the reclassification of the police officers and sergeants deemed appointed to the rank of assistant inspector herein and the payment of any additional compensation related thereto.

The effective date of this section as amended herein shall be the first day of the month following ratification.

3.535 Special Police Officers

At his discretion or upon the petition of any person, firm or corporation, the chief of police may appoint, and at his pleasure remove special police officers. Such officers shall be subject to all the rules and regulations of the department.

3.536 Patrol Special Officers

The police commission may appoint patrol special officers and for cause may suspend or dismiss said patrol special police officers after a hearing on charges duly filed with the commission and after a fair and impartial trial. Each patrol special police officer shall be at the time of his appointment not less than twenty-one years of age nor more than forty years of age and must possess such physical qualifications as may be required by the commission. Age qualifications shall not apply to present patrol special police officers acting as such on January 11, 1943, nor to their reappointment. Patrol special police officers who are designated by the police commission as the owners of a certain beat or territory as may be fixed from time to

time by said commission or the legal heirs or representatives of said owners, may dispose of their interest in said beat or territory to a person of good moral character, approved by the police commission and eligible for appointment as a patrol special police officer.

3.537 Special Powers of the Chief of Police

In the suppression of any riot, public tumult, disturbance of the public peace or organized resistance against the laws or public authority, the chief of police, in the lawful exercise of his functions, shall have all the powers that are now or that may be conferred on the sheriff by the laws of this state.

The chief of police shall have the power, by regulation, to provide for the care and restitution of property that may come into possession of any officer or employee thereof, and the sale at public auction of all such unclaimed property, as well as the disposition of such property as shall consist of weapons or articles used or that may be used in the commission of crime, or the sale or disposition of which is prohibited by law.

The chief of police may refuse to issue any permit that is subject to police department investigation and issuance, if it shall appear that the character of the business or the applicant requesting such permit does not warrant the issuance thereof, or he may revoke any such permit as soon as it shall appear that the business or calling of the person to whom it was granted is conducted in a disorderly or improper manner, or that the place in which the business is conducted or maintained is not a proper or suitable place in which to conduct or maintain such business or calling.

The chief of police in the performance of police duties shall have power to examine at any time the books and the premises of pawnbrokers, peddlers, junk and second-hand dealers, auctioneers and other businesses designated by the board of supervisors, and for these purposes shall have the power of inquiry, investigation and subpoena, as provided by this charter.

3.538 Traffic Regulation

The traffic function of the police department shall be under the jurisdiction of the chief of police, who shall have powers and duties relating to street traffic, subject to laws relating thereto as follows: (a) to regulate all street traffic by means of police officers and the emergency use of temporary signs or devices; (b) to promote traffic safety education and to receive and give prompt attention to complaints in relation to street traffic and to refer all complaints relating to or arising from street design or from traffic devices, or the

absence thereof, to the department of public works; (c) to collect and compile traffic accident data, copies whereof shall be furnished to the department of public works; (d) to cooperate and advise for the best performance of these functions, with the department of public works, the public utilities commission, the fire department, the department of city planning, the board of supervisors and other departments and agencies of the city and county and state as may be necessary; and (e) to review all proposed plans relating to street traffic control devices which are received from the department of public works and to make such recommendations to that department as may be deemed necessary for the proper regulation of street traffic within fifteen (15) days after receipt of said plans from the department of public works, pursuant to section 3.510 of this charter.

The powers and duties of the chief of police with respect to traffic functions hereinabove stated shall not modify to any extent the powers and duties of any department or office, but shall be, first for the purpose of assisting the chief of police in his regulation of traffic, and, second, for the purpose of recommendation only, to other departments or offices upon matters within their jurisdiction, but affecting to any extent the regulation of traffic.

The effective date of this section as amended herein shall be July 1, 1972.

3.539 Special Police Funds

The board of supervisors shall have the power to appropriate to the police department an amount not to exceed in any one fiscal year the sum of $50,000 to be known as the contingent fund of the chief of police. The chief of police may from time to time, disburse such sums from such fund as in his judgment shall be for the best interests of the city and county in the investigation and detection of crime, and the police commission shall allow and order paid out of such contingent fund, upon orders signed by the chief of police, such amounts as may be required.

The board of supervisors shall have the power to appropriate to the police department an amount not to exceed in any one fiscal year the sum of $50,000 to be known as the narcotic fund of the chief of police. The chief of police may from time to time, disburse such sums from such fund as in his judgment shall be for the best interests of the city and county in the enforcement of the narcotic laws, and the police commission shall allow and order paid out of such narcotic fund, upon orders signed by the chief of police, such amounts as may be required.

Part Five: Fire Department

3.540 Commission

The fire department shall be under the management of a fire commission, consisting of three members, who shall be appointed by the mayor and each of whom shall receive an annual compensation of twelve hundred dollars ($1,200). The term of each commissioner shall be four years, commencing at twelve o'clock noon on the 15th day of January in the years of 1948, 1949 and 1950, respectively.

The fire commissioners shall be successors in office of the fire commissioners holding office in the city and county at the time this charter shall go into effect, and shall have all the powers and duties thereof, except as in this charter otherwise provided. The commissioners shall have power, upon recommendation of the chief of department, to send fire boats, apparatus and men outside the City and County of San Francisco for fire-fighting purposes.

Positions of officers and employees of the fire department legally authorized shall continue, and the incumbents therein legally appointed thereto shall continue as the officers and employees of the department under the conditions governing their respective appointments, and except as in this charter otherwise provided.

3.541 Chief of Department; Other Commission Appointments

The fire commission shall appoint a chief of department, a secretary and a department physician who shall hold office at its pleasure.

3.542 Ranks in the Department

The several ranks in the fire department shall be: chief of department; deputy chief of department; chief, division of fire prevention and investigation; first assistant and second assistant chiefs of department; secretary to chief of department; battalion chiefs; supervisor of assignments; captains; lieutenants; inspector of fire department apparatus; engineers; chief's operators; drivers; tillermen; truckmen; hosemen; pilots of fire boats and marine engineers of fire boats; captain, bureau of fire prevention and public safety; lieutenant, bureau of fire prevention and public safety; lieutenant, bureau of fire investigation; inspector, bureau of fire prevention and public safety; and investigator, bureau of fire investigation. Any member of the fire department now assigned as captain, bureau of fire prevention and public safety, lieutenant, bureau of fire prevention and public safety, lieutenant, bureau of fire investigation, inspector, bureau of fire prevention and public safety, or investiga-

tor, bureau of fire investigation, shall, if he has been performing such duties on July 1, 1952 and continuously thereafter for the period of one year, or for a period of one year from July 1, 1951 to July 1, 1952 inclusively, be declared permanently appointed to such rank as if appointed thereto after examination and certification from a list of eligibles under the civil service provisions of this charter, and thereafter shall hold such position under the civil service provisions of this charter; provided that as to any member assigned to either of said bureaus who is or was on military leave during any of the periods of time above stated such military leave shall be considered as service in the assignment from which leave was granted.

The compensation for these ranks shall be determined as provided in section 8.405 (c) of this charter.

3.543 Assistant Fire Chief and Other Executives

Subject to the provisions of section 3.501 of the charter governing the appointment and removal of non-civil service officers, assistants and employees, and without competitive examination, the chief of the fire department shall have the power to appoint, from among the members of the department having the rank of first or second assistant chief of department, a deputy chief of department and, from among the members of the department having the rank battalion chief, a secretary to the chief of department.

3.544 Fire Marshal

The chief of the fire department, with the approval of the fire commission, may appoint a fire marshal and assistants on the recommendation of the Underwriters Fire Patrol of San Francisco, to serve without compensation from the city and county. The board of supervisors may empower the fire marshal to sell property saved or salvaged from any fire and for which no owner can be found. The fire marshal may call upon police officers to assist in the protection or salvaging of property and shall have such other powers and duties as by ordinance may be prescribed relative to the protection of property at fires and the storage of property salvaged therefrom. He shall have such duties appertaining to the enforcement of laws relative to the storage, sale and use of oils, combustible materials and explosives as the fire commission by rule, or the supervisors by ordinance, may prescribe.

3.545 Fire Prevention

The chief of department shall have jurisdiction, under the management of the fire commission, of the division of fire prevention and investigation consisting of the bureau of fire prevention and public

safety and the bureau of fire investigation. He shall hold the assistant chief of department, division of fire prevention and investigation, to the responsibility and authority for enforcement of laws and statutes of the State of California, and the charter and ordinances of the City and County of San Francisco, pertaining to matters of fire prevention and fire investigation.

The bureau of fire prevention and public safety shall inspect all hospitals, schools, places of public assemblage, and other premises regulated by Title 19 of the California Administratvie Code, flammable liquid storage facilities, other hazardous occupancies as defined by the Building Code, and all occupied or vacated structures and premises to determine whether or not compliance is being had with statutes, regulations, and ordinances relative to fire prevention, fire protection and firespread control, and the protection of persons and property from fire. It shall enforce said statutes, regulations, and ordinances and shall report violations to other departments having jurisdiction.

The bureau of fire prevention and public safety shall examine the application, plans and specifications for the erection, and for alterations or repairs estimated to exeed $1,000 in cost, of any hospital, school, place of public assemblage as defined in the Building Code, other premises regulated by Title 19 of the California Administrative Code, flammable liquid storage facility, or other hazardous occupancy as defined by the Building Code, subject to the statutes, regulations, and ordinances referred to in this section, and shall also examine the applications, plans and specifications for all structures and premises insofar as they involve the location of standpipes. The bureau of fire prevention and public safety shall by written report, filed with the director of public works, approve such plans and specifications, or report to said director of public works, the particulars wherein non-compliance exists, and upon modification of the application, plans and specifications to comply therewith, the bureau shall inform said director of its approval. No permit for alteration or repair exceeding $1,000 in cost of any hospital, school, place of public assemblage as defined in the Building Code, other premises regulated by Title 19 of the California Administrative Code, flammable liquid storage facility, or other hazardous occupancy as defined by the Building Code, or for the erection thereof, or involving the location of standpipes, shall be issued unless said approval is given.

Any structure or premises as provided in this section 3.545 wherein there exists any violation of statutes, regulations, or ordinances referred to in this section, or which is maintained or used in such manner as to endanger persons or property by hazard or fire,

explosion or panic and any structure or premises as provided in this section 3.545 hereafter constructed, altered or repaired in violation of said statutes, regulations, or ordinances, is hereby declared to be a public nuisance, and it shall be the duty of the bureau of fire prevention and public safety to prosecute abatement proceedings.

The bureau of fire prevention and public safety shall detail to the department of public works such personnel as necessary to review and check plans relative to requirements of the Fire Code and shall report any particulars of non-compliance to the director.

The fire department shall make recommendations to the director of public works for possible revisions to the Building Code and Housing Code on matters of fire safety.

3.546 Curtailment of Fireboat Operation

In the event that the services of any pilot, marine engineer or marine fireman holding permanent civil service status as such, hereinafter referred to as the said member, are no longer required in connection with fireboat operation due to curtailment of such operation by the City and County of San Francisco or due to the conversion from steam fireboats to motorized fireboats, the said member on the basis of seniority in rank may be reassigned to duties of a position of some other rank in the fire department in which a vacancy in a permanent position exists and not carrying a higher compensation than the compensation of the rank previously held by said member, as the chief of department, with the approval of the fire commission shall determine are within the said member's ability to perform, below the rank of lieutenant, provided however, said member shall not be eligible for promotional examination in the fire department. Upon such reassignment the said member shall be declared to be permanently appointed to such new rank as if appointed thereto after examination and certification from a list of eligibles under the civil service provisions of this charter, and he shall have seniority therein from date of such reassignment and he shall receive the same rate of pay as would be applicable to any other member of such new rank having the same number of years of service in the department under the provisions of section 8.405 (c) of the charter. If no vacancy in a permanent position exists to which immediate reassignment may be made as indicated above, then such member shall be laid off from his position subject to reassignment as indicated above when such a vacancy does occur.

If at any time after such reassignment the said member's original position, or a similar position becomes available on fireboats under jurisdiction of the San Francisco Fire Department, the said member

shall be assigned to such position in accordance with his seniority in rank in the department, preference in such assignment being given to the said member having the greatest seniority. Upon such assignment the said member shall be declared to be reappointed to the rank he held at the time he was transferred from such fireboat service and shall be restored to all the civil service rights and privileges appurtenant thereto, including such additional rights and privileges as may have accrued by reason of added seniority.

Nothing in this section shall affect the said member's pension and retirement rights and privileges under Chapter Five of Article Eight.

The chief of department, the board of fire commissioners, the civil service commission, the controller and the board of supervisors shall perform all acts necessary to carry out the provisions of this section.

3.547 Power to Remove Structures

The chief of fire department or, in his absence, the deputy chief or any assistant chief of department or, in their absence any battalion chief in charge, may, during a conflagration, cause to be cut down or otherwise removed any buildings or structures for the purpose of checking the progress of such conflagration.

Part Six: Recreation and Park Department

3.550 Commission

The recreation and park department shall be under the management of a recreation and park commission, the members of which shall serve as commissioners thereof without compensation. Said commission shall consist of seven members, who shall be appointed by the mayor for a term of four years; provided that the respective terms of office of those first appointed shall be as follows: two for two years, two for three years, and three for four years from the effective date of this section. Vacancies occurring in the offices of appointive members, either during or at expiration of term, shall be filled by the mayor. Not less than two members of said commission shall be women.

3.551 General Manager; Other Executives

The recreation and park commission shall appoint a general manager, who shall hold office at the pleasure of the commission. The commission shall also appoint a secretary, subject to the civil service provisions of this charter.

The general manager shall be the chief executive officer of the department. Subject to the approval of the commission, he shall have

power to appoint and to remove a superintendent of recreation, a superintendent of parks, a director of the zoo, an executive secretary to the general manager, and a director of the Strybing Arboretum and Botanical Gardens, all of whom shall be exempt from the civil service provisions of this charter, and shall hold office subject to such power of removal on approval of the commission. The position of director of Strybing Arboretum and Botanical Gardens shall be held only by a person who possesses the educational and administrative qualifications and experience necessary to direct and administer a complete program for the development, operation and maintenance of an arboretum and botanical garden.

3.552 Powers and Duties

The recreation and park commission shall have the complete and exclusive control, management and direction of the parks, playgrounds, recreation centers and all other recreation facilities, squares, avenues and grounds which are in the charge of the commission on the effective date hereof, or are thereafter placed in the charge of the commission, except as in this charter otherwise provided.

It shall also have power to construct new parks, playgrounds, recreation centers, recreation facilities, squares and grounds, and to erect and maintain buildings and structures on parks, playgrounds, squares, avenues and grounds, provided that all plans, specifications and estimates in connection therewith shall be prepared by the department of public works and be subject to approval by the recreation and park commission.

All contracts or orders for the work to be performed under such plans and specifications shall be awarded and executed by the director of public works with the approval of the recreation and park commission and shall be administered by the director of public works.

It shall be the duty of the recreation and park commission to make provision for the funds required for the operation and continuance of the duties herein assigned to the department of public works.

The persons performing the functions and duties transferred from the recreation and park department to the department of public works shall be transferred therewith, and such employees shall retain in the department of public works the same salary and civil service seniority status as they had in the recreation and park department.

It shall be the policy of the commission to promote and foster a program providing for organized public recreation of the highest standard.

The commission, through the general manager, shall utilize the

property under its control and organize the personnel under its direction, to the end that all functions of the department be performed with the greatest possible efficiency.

3.553 Relationship to School District

The San Francisco Unified School District shall supervise and direct recreational activities in facilities under its jurisdiction, and the commission and the school district shall have the power to supervise and direct other adjacent recreation and park facilities either jointly or severally by agreement.

Part Seven: Library Department

3.560 Commission

The library department shall be under the management of a library commission consisting of seven members who shall be appointed by the mayor and shall serve without compensation.

The term of each commissioner shall be four years, at the expiration of which the mayor shall appoint his successor.

3.561 Librarian; Secretary

The library commission shall appoint a librarian and a secretary who shall hold office at its pleasure. The librarian shall be the chief executive of the department and shall be the appointing officer for the department as provided in section 3.501 of the charter.

Part Eight: Social Services Department

3.570 Composition of Department; Commission

There is hereby established a social services department. This department shall consist of a social services commission of five members, a director of social services, and such employees and assistants as may be necessary to carry out the work and functions of said department.

The members of the social services commission shall be appointed thereto by the mayor and shall be selected for their respective positions on the basis of their interest in and understanding of the problems of public welfare. The members of said commission shall serve without compensation and no person shall be eligible to serve on said commission while holding a salaried public office, position or employment.

The term of office of the members of the said commission, subject to the provisions hereof relative to removal and the terms of the first members of the commission, shall be four years.

The mayor shall appoint five members to said social services commission, one member to be appointed for a term to expire on the 15th day of January, 1938; one for a term to expire on the 15th day of January, 1939; one for a term to expire on the 15th day of January, 1940, and two for terms to expire on the 15th day of January, 1941; and upon the expiration of the terms of each of said members of said commission so appointed, the mayor shall fill the vacancy arising by reason of the expiration of said term by the appointment of a member to said commission for a term of four years. Vacancies occurring in the membership of said commission shall be filled by an appointment to be made by the mayor for the unexpired term of said person in whose place said appointment is made; and when the term of any member of said commission shall expire, then said appointment shall be made for the full period of four years from the date of the expiration of the term. All vacancies shall be filled within thirty days of the occurrence thereof.

Members of the commission shall be subject to removal from office by the mayor for cause, but only upon written charges made and signed by the mayor, copy of said charges to be served upon the offending commissioner; and said charges shall be heard by the mayor and on said hearing of said charges the said commissioner so charged shall have the opportunity to appear and to be heard.

The commission shall be a policy-determining and supervisory body and shall have all the powers provided for in section 3.500 of the charter.

3.571 Director

The commission shall appoint and, subject to the budgetary provisions of this charter, fix the salary of a director of social services who shall serve at the pleasure of said commission and shall not be subject to the civil service provisions of the charter. Said director shall possess qualifications and experience essential to the conduct of a complete program of public welfare. Said director shall be the chief executive of the department and shall have all the powers provided for chief executives as set forth in section 3.501 of the charter. He shall be responsible for the enforcement of the rules and regulations of the commission and, upon the recommendation of the commission, shall have the power to establish such divisions and bureaus as may be necessary for the administration of relief and welfare in the City and County of San Francisco.

3.572 Functions and Duties

The social services department shall perform such other duties and have such other functions as may be authorized by the board of

supervisors of the City and County of San Francisco or required by the government of the United States or the State of California or any department or agency thereof.

3.573 Employees

All employees in the social services department, with the exception of the director thereof, shall be subject to the civil service provisions of the charter and, subject to said provisions, the director of social services may employ such employees as may be necessary for the carrying out of the work and functions of the department.

Part Nine: Port Commission

3.580 Commission; Composition

The San Francisco Port Commission shall consist of five members who shall be appointed by the mayor, their appointment being subject to confirmation by the board of supervisors. Each of said members shall serve for a term of four years. Vacancies on the commission shall be filled by the mayor for the unexpired portion of the term. Initial appointive members of the commission shall consist of the incumbent members of the San Francisco Port Authority, who shall serve as commissioners for a term corresponding to the unexpired portion of their tenure as members of the port authority. In addition, the director of finance and secretary of agriculture and services, or their designated representatives, shall be ex-officio members of the commission. Persons appointed to the port commission shall be subject to recall, suspension and removal in the same manner as an elected official. The compensation of each member of said port commission shall be twelve hundred dollars ($1,200) per year. Ex-officio members of the commission shall serve as such without compensation.

3.581 Powers and Duties

The port commission shall have all the powers and duties given to boards and commissions by section 3.500 of the charter and shall have the power to establish such departments and bureaus as may be necessary or convenient for the conduct of its affairs. Subject to the terms and conditions of the transfer and any supplemental agreements relating thereto, the port commission shall have the control and management of all real and personal property transferred under the Statutes 1968, ch. 1333, or otherwise acquired or purchased with funds under its control or acquired or puchased by it within the scope of its authority, or otherwise placed under its management, supervision and control. The property under the control and manage-

ment of the commission shall be known as the port area. The port commission shall have the power and duty to use, conduct, operate, maintain, manage, regulate, and control the port area of San Francisco and to do all things it deems necessary in connection with the use, conduct, operation, management, maintenance, regulation, improvement and control of said port area, or which may further the interests of the port in world trade, including, without limiting the generality of the foregoing, the exclusive power to perform or accomplish the following:

(1) The improvement, operation and conduct of the harbor, and any and all improvements or facilities located thereon;

(2) The construction, reconstruction, repair, operation and use of all works, buildings, facilities, utilities, structures and appliances incidental, necessary or convenient for the promotion and accommodation of commerce and navigation, or located within the port area;

(3) The establishment, improvement and conduct of railroad and aviation facilities and all works, buildings, facilities, utilities, structures and appliances incidental, necessary or convenient for the promotion and conduct of air commerce and navigation and railroad transportation;

(4) The construction, reconstruction, repair, maintenance and operation of public buildings, parks, playgrounds, public educational and recreation facilities and all works, buildings, facilities, structures and appliances incidental, necessary or convenient for the promotion and accommodation of any such uses;

(5) The preservation or restoration of marine resources consistent with the primary mission of the harbor of San Francisco;

(6) The grant of franchises thereof for limited periods not exceeding 66 years for wharves and other public uses and purposes and the lease of said lands, facilities, or any part thereof for limited periods not exceeding 66 years, and the collection and retention of rents and other revenues from such leases, franchises, permits, licenses, and privileges. Such lease or leases, franchises, permits, licenses, and privileges shall be for purposes consistent with the trusts upon which the lands are held by the state and with the requirements of commerce and navigation, or if the port commission of the City and County of San Francisco determines that any portion of the transferred lands is not required for the foregoing uses described in this section, such lease or leases, franchises, permits, licenses, and privileges, may be for the purposes of such development and use as the commission finds will yield maximum profits to be used by the commission in the furtherance of commerce and navigation;

(7) Leases and franchises granted or made by the port commission shall be administered exclusively by the operating forces of the port commission;

(8) The power to nominate for appointment a port director who shall be the chief executive of the port commission and who shall have the management of all the affairs and activities placed under the jurisdiction of the commission. The mayor shall appoint a port director. He shall devote his entire time to the duties of his office and his salary shall be fixed by the commission. He shall hold his office at the pleasure of the commission and shall have the management of said harbor and of all of the facilities and equipment thereof and all bureaus and departments established for the operation of said harbor or for the operation of any equipment or facility thereof. Subject to the approval of the commission he shall appoint and remove any and all heads of departments or bureaus, who may not be subject to the civil service provisions of the charter. He shall possess the necessary administrative, executive and technical qualifications necessary to enable him to perform the duties of his office. His compensation shall not exceed prevailing salaries paid those holding similar positions in comparable maritime employment. The commission may confer on him such additional powers and authority as it may see fit;

(9) To regulate the berthing, anchoring, towing, loading and unloading and mooring of vessels within the port;

(10) To issue receipts, negotiable or otherwise, for property or merchandise in its charge or possession;

(11) To fix all rates, dockage, rentals, tolls, wharfage, and charges, for the use and occupation of the public facilities or appliances of the port, and for services rendered by the port commission, and to provide for the collection thereof;

(12) To enter into contracts, agreements, or stipulations germane to the scope of its powers and duties;

(13) To give such bonds or assurances as may be required by the United States in the operations permitted hereunder;

(14) To provide and equip offices within or without the port, within other states, or in foreign countries, and through such employees and agencies as it may deem expedient;

(15) To contract for and operate foreign trade zones within the port area or auxiliary to the port area, or such zones or sub-zones as have been operated by the San Francisco Port Authority. Agreement may be made with the public utilities commission for operation of future zones or sub-zones in other areas;

(16) Members and officers of the port commission shall be exempt from the provisions of the city charter relating to absences

from the state, but shall advise the mayor and the board of supervisors in advance of such absences;

(17) May promote the maritime and commercial interests of the harbor by advertising its advantages and facilities and by the solicitation of business. The advertising and solicitation may be conducted within or without this state and through such agencies, mediums, employees and agents as are determined by the commission. The commission may, in its discretion, publish and distribute a magazine, pamphlets, booklets and other printed and advertising matter for the purpose of developing traffic and promoting and maintaining the commerce and prestige of the port, and may use any moneys of the harbor fund for the special purposes authorized by this provision. Members and employees of the commission in attending conventions of port authorities and meetings of transportation clubs, trade associations and business organizations that may advance the interests of the port shall be allowed their actual necessary expenses in the performance of such services as may from time to time be deemed desirable by the commission and shall be allowed hospitality expenses necessarily incurred in furthering the interests of the port;

(18) To issue revenue bonds as provided in section 7.305.

(19) To expend all funds necessary to the carrying out of the powers and duties herein expressed;

(20) This section does hereby vest in the port commission all of the powers set forth in section 3 and section 5 of the Statutes of 1968, chapter 1333, which provisions are hereby incorporated in the charter by this reference.

3.582 Transfer of Harbor

The City and County of San Francisco shall accept the transfer and assume jurisdiction and control of the harbor of San Francisco and the facilities thereof in accordance with the terms and conditions of Statutes 1968, ch. 1333. All the powers and duties incident to the management, government, control and administration of said harbor and all properties and utilities used in connection therewith, shall be vested in the port commission of the City and County of San Francisco.

The board of supervisors of the City and County of San Francisco shall have and is hereby granted power to enter into any agreement with the State of California, the director of finance, or any officer, agency or commission of the State of California, and to pass all necessary legislation and to do or perform any other act or acts deemed necessary to effect the transfer of the jurisdiction and control of the harbor of San Francisco, or any of the facilities thereof, to the City and County of San Francisco.

3.583 Status of Employees

All employees of the port authority who, at the time the transfer provided for herein shall go into effect, are members of the Public Employees' Retirement System of the State of California shall continue to be members of said Public Employees' Retirement System, with all the rights, privileges and benefits of said system and they shall not be members of the San Francisco City and County Employees' Retirement System; and, notwithstanding any other provisions of this charter, the city and county shall perform all acts necessary to continue the membership of such employees in said Public Employees' Retirement System.

All employees of the port authority who, at the time the transfer provided for herein shall go into effect, are covered under the provisions of a retirement program other than the Public Employees' Retirement System of the State of California shall thereafter continue to be covered under such retirement program and they shall not be members of the San Francisco City and County Employees' Retirement System; and, notwithstanding any other provisions of this charter, the city and county shall perform all acts necessary to continue the coverage of such employees under such retirement program.

Persons who, after the transfer provided for herein has gone into effect, become employees of the city and county in positions related to the operation of the State Belt Railroad and who become covered under the provisions of the Railroad Retirement Act by virtue of their employment in such positions shall not be members of the San Francisco City and County Employees' Retirement System.

3.584 Budgeting and Fiscal Procedure

In the matter of the control and operation of the harbor and of the facilities and equipment thereof, including the matter of budgets and appropriations, the port commission shall be subject to the budgetary and fiscal procedure elsewhere provided for in this charter.

3.585 Legal Advisor

The city attorney shall be the legal advisor of the commission, and may, with the approval of the commission, compromise, settle or dismiss any litigation or legal proceeding, pending for or on behalf of the commission relative to any matter under its jurisdiction, and said commission may with the consent of the mayor and the approval of the city attorney appoint special counsel.

Part Ten: Public Utilities Commission

3.590 Commission; Composition

A public utilities commission is hereby created, which shall consist of five members, who shall be appointed by the mayor and who shall be subject to recall and to suspension and removal in the same manner as elective officers. The term of each commissioner shall be four years, provided that the five commissioners first appointed by the mayor after twelve o'clock noon, on the 8th day of January, 1932, shall, by lot, classify their terms so that the term of one commissioner shall expire at twelve o'clock noon on the 15th day of January in each of the years 1933, 1934, and 1935, respectively, and that the terms of two other commissioners shall expire at twelve o'clock noon on the 15th day of January, 1936, and on the expiration of these and successive terms, the mayor shall appoint their successors for four years. The compensation of each commissioner shall be one hundred dollars ($100) per month.

3.591 Powers and Duties

The public utilities commission shall have charge of the construction, management, supervision, maintenance, extension, operation and control of all public utilities and other properties used, owned, acquired, leased or constructed by the city and county, excepting airports, for the purpose of supplying any public utility service to the city and county and its inhabitants, to territory outside the limits of the city and county, and to the inhabitants thereof.

The commission shall locate and determine the character and type of all construction and additions, betterments and extensions to utilities under its control, and shall determine the policy for such construction or the making of such additions, betterments and extensions from the public funds under its jurisdiction; provided that in each such case it shall secure the recommendation of the manager of utilities, which shall be presented in writing and shall include analyses of cost, service and estimated revenues of all proposed or feasible alternatives in cases where it is deemed by the manager that such alternatives exist.

The commission shall also have power to enter into contract for the furnishing of heat, light and power for municipal purposes, and to supervise the performance and check the monthly bills under such contract.

The commission shall have full power and authority to enter into such arrangements and agreements as it shall deem proper for the joint use with any other person, firm or corporation owning or having jurisdiction over poles, conduits, towers, stations, aqueducts,

reservoirs and tracks for the operation of any of the utilities under its jurisdiction. It may make such arrangements as it shall deem proper for the exchange of transfer privileges with any privately owned transportation company or system which shall tend toward the betterment of transportation service.

The commission shall observe all city and county ordinances and the regulations of the department of public works relative to utility openings, structures and poles in streets and other public places, as well as all ordinances and regulations relative to barricades, construction lights, refilling excavations and replacing and maintaining street pavements; and in connection with all such matters the said commission shall be subject to the same inspection rules and pay fees to the proper department in the same manner and at the same rates as any private person or corporation.

The commission shall have charge of all valuation work relative or incidental to purchase proceedings initiated by the city and county for the acquisition of any public utility.

3.592 Utility Departments and Bureaus

The San Francisco municipal railway, the San Francisco water department, the Hetch Hetchy project until the completion thereof when it shall be merged with the water department, or until any time prior to completion that the public utilities commission shall, with the approval of the board of supervisors by a two-thirds vote, declare the project merged with the water department and any other public utility hereafter acquired exclusive of airports or air transportation facilities, shall each be designated as a department under the public utilities commission, and, in addition, the public utilities commission may create a bureau of engineering and such other bureaus as it may deem necessary for the handling of matters that do not pertain exclusively to any one department.

The Hetch Hetchy project shall not be deemed completed until a specific finding of completion thereof has been made by the public utilities commission and approved by the board of supervisors by a two-thirds vote of all members.

The salaries and general expenses of the commission in such manner as the commission may deem appropriate, and such apportionment shall be shown as expenses of such utilities.

3.593 Manager of Utilities and Other Executives

The public utilities commission shall appoint a manager of utilities who shall be the chief executive of the commission and shall, subject to the approval of the commission, have the management of all utilities, bureaus and operations under its jurisdiction. He shall hold

office at the pleasure of the commission. Subject to the approval of the commission, he shall appoint or remove the heads of departments and bureaus under the commission, exclusive of the civil service provisions of this charter. The manager of utilities and the heads of departments and bureaus shall each possess the necessary executive, administrative and technical qualifications for their respective offices. The manager shall have full power to administer the affairs of the commission as chief executive officer and may, with the consent of the commission, act as the head of any department or bureau created by this charter or by the commission. The salaries of the manager and heads of separate utilities and bureaus shall not exceed prevailing salaries paid those holding similar positions in comparable private employment.

3.594 Legal Advisor

The city attorney, as the legal acvisor of the commission, may, with the approval of the commission, compromise, settle or dismiss any litigation or proceedings which may be pending for or on behalf of or against said commission relative to any matter or property under its jurisdiction. He shall detail to the commission such attorneys as the commission may deem necessary, subject to the approval of the commission as to each such attorney or assistant so assigned. The commission shall have authority, subject to the approval of the mayor, to appoint special counsel for temporary purposes. The compensation of all such attorneys shall be paid by the commission from the revenues of the utilities under its jurisdiction.

3.595 Regulation of Street Railways

(a) The public utilities commission, subject to the provisions, limitations and restrictions in this charter contained, shall have power to regulate street railroads, cars and tracks; to permit two or more lines of street railways operating under different management to use the same street, each paying an equal portion for the construction and repair of the tracks and appurtenances used by the said railways jointly for such number of blocks consecutively, not exceeding ten blocks; to regulate rates of speed and propose such ordinances to the board of supervisors as are necessary to protect the public from danger or inconvenience in the operation of such roads.

No person, firm or corporation shall ever be granted the exclusive right to operate a street or other railroad through, in or under any tunnel, subway or viaduct constructed or acquired by the levy, in whole or in part, of special assessment upon private property for such construction or acquisition. Two or more lines of street railways

operated under different management may use such tunnel, subway or viaduct for the entire length thereof and for five consecutive blocks approaching each end thereof, each management paying an equal portion of the expense for the construction, maintenance and repairs of the tracks and appurtenances used by said railways jointly. The city and county in the operation of a municipal railway may use any such tunnel, subway or viaduct either singly or jointly with any privately operated railway for the entire length thereof and for any number of blocks approaching each end thereof; and in case of joint use of tracks, shall pay an equal portion of the expense for the construction, maintenance and repairs of the tracks and appurtenances used by said railways jointly.

(b) In the conduct of the municipal railway there shall be maintained and operated cable car lines as follows:

(1) A line commencing at Powell and Market Streets; thence along Powell Street to Jackson Street; thence along Jackson Street to Mason Street; thence along Mason Street to Columbus Avenue; thence along Columbus Avenue to Taylor Street; thence along Taylor Street to a terminal at Bay Street; returning from Bay and Taylor Streets along Taylor Street to Columbus Avenue; thence along Columbus Avenue to Mason Street; thence along Mason Street to Washington Street; thence along Washington Street to Powell Street; and thence along Powell Street to Market Street, the point of commencement.

(2) A line commencing at Powell and Market Streets; thence along Powell Street to Jackson Street; thence along Jackson Street to Hyde Street; thence along Hyde Street to a terminal at Beach, returning from Beach and Hyde Streets along Hyde Street to Washington Street; thence along Washington Street to Powell Street; thence along Powell Street to Market Street, the point of commencement.

(3) A line commencing at Market and California; thence along California Street to a terminal at Van Ness Avenue; returning from Van Ness Avenue along California Street to Market Street, the point of commencement.

To fully effectuate the intent of this section respecting the cable car lines designated in 1, 2 and 3 above, the public utilities commission shall maintain and operate said lines at the normal levels of scheduling and service in effect on July 1, 1971; provided, however, that nothing herein contained shall prevent the commission from increasing at any time the said levels of scheduling and service.

The fare on any cable car line shall not exceed the local fare established under the provisions of section 3.598 of this charter for other types of carrier equipment employed in the operation of the San Francisco Municipal Railway.

(c) In the event of the unification, consolidation or merger of the San Francisco Municipal Railway with any privately owned street railway system or with any portion or facility thereof, no line of street railway, bus line, trolley bus line or cable car line, or any portion thereof, which is now or will be owned by the City and County of San Francisco and is now or will be operated by the agency responsible for public transit, shall be abandoned nor shall the service be discontinued thereon except upon recommendation by such agency in writing, to the board of supervisors. The recommendation of such agency shall be acted upon by the board of supervisors within thirty days from the receipt thereof. For the purpose of hearing such recommendation a public hearing shall be held. If the said recommendation is disapproved by at least nine votes it shall not become effective and such services shall be continued. If said recommendation is not disapproved by nine votes of said board the recommendation shall become effective forthwith. Failure of the board of supervisors to act on said recommendation within thirty days shall be deemed as the approval of said recommendation provided that the agency responsible for public transit may without reference or recommendation to the board of supervisors abandon or discontinue service on any line of street railway, bus line, trolley bus line, or cable car line, or any portion thereof, which has been in operation for less than one year next immediately preceding such order of abandonment or discontinuance.

3.596 Utility Accounting

Subject to the provisions of section 3.301, the public utilities commission shall maintain separate accounts for each utility in such manner as to exhibit exact and complete financial results of ownership, management and operation; the actual cost of each utility; all costs of maintenance, extension and improvement; all operating expenses of every description; the general expenses of the commission and bureaus thereof apportioned to each such utility; the amount paid or set aside for depreciation, insurance, interest and sinking fund; and estimates of the amount of taxes that would be chargeable against such property and the revenue thereof if privately owned and operated. All accounts shall be maintained in accordance with forms and requirements of the state railroad commission for public utilities engaged in like character of service, in so far as these shall be applicable to publicly owned and operated utilities.

3.597 Foreign Trade Zones

Foreign trade zones, as may be authorized by acts of Congress to

be located in the city and county, are hereby declared to be public utilities within the meaning of this charter.

3.598 Utility Rates

The public utilities commission shall have power to fix, change and adjust rates, charges or fares for the furnishing of service by any utility under its jurisdiction, and to collect by appropriate means all amounts due for said service, and to discontinue service to delinquent consumers and to settle and adjust claims arising out of the operation of any said utilities.

Rates may be fixed at varying scales for different classes of service or consumers. The commission may provide for the rendition of utility service outside the limits of the city and county and the rates to be charged therefor which may include proportionate compensation for interest during the construction of the utility rendering such service.

Before adopting or revising any schedule of rates or fares, the commission shall publish in the official newspaper of the city and county for five days notice of its intention so to do and shall fix a time for a public hearing or hearings thereon, which shall be not less than ten days after the last publication of said notice, and at which any resident may present his objection to or views on the proposed schedule of rates, fares or charges.

Rates for each utility shall be so fixed that the revenue therefrom shall be sufficient to pay, for at least the succeeding fiscal year, all expenses of every kind and nature incident to the operation and maintenance of said utility, together with the interest and sinking fund for any bonds issued for the acquisition, construction or extension of said utility; provided that, should the commission propose a schedule of rates, charges or fares for said utility which shall not produce such revenue, it may do so with the approval of the board of supervisors, by a two-thirds vote and it shall thereupon be incumbent to provide by tax levy for the additional amount necessary to meet such deficit. All other changes in rates, charges or fares as proposed by the commission shall be submitted by the commission to the board of supervisors for approval, and, except as in this section otherwise provided, it shall require a two-thirds vote of the board of supervisors to reject the rate changes as proposed by the commission, and if so rejected, such proposed changes in schedules or rates, charges or fares shall be returned to the commission for revision. If the supervisors shall fail to act on any such proposed schedule within thirty days, the schedule shall thereupon become effective.

3.599 Acquisition of Public Utilities

It is the declared purpose and intention of the people of the city and county, when public interest and necessity demand, that public utilities shall be gradually acquired and ultimately owned by the city and county. Whenever the board of supervisors, as provided in sections 7.300 to 7.302, inclusive; and 6.401 (a) of this charter, shall determine that the public interest or necessity demands the acquisition, construction or completion of any public utility or utilities by the city and county, or whenever the electors shall petition the supervisors, as provided in sections 7.303, 9.108 and 9.109 of this charter, for the acquisition of any public utility or utilities, the supervisors must procure a report from the public utilities commission thereon.

Part Eleven: Art Commission

3.600 Commission; Composition

An art commission for the city and county is hereby created, consisting of ten members appointed by the mayor and six ex officio members. The ex officio members shall be the mayor and the chairmen of the following boards and commissions: public library, recreation and park, city planning, de Young Memorial Museum and California Palace of the Legion of Honor. The Mayor shall appoint three lay members, and an artist-painter, an artist-sculptor, a musician, a litterateur, two architects and one landscape architect. In appointing the seven professional members, the mayor shall solicit nominations from architectural, art, musical, literary and other cultural organizations of the city.

The first appointments by the mayor shall be made not later than the 15th day of January, 1932, and shall be for the following terms, which shall expire at twelve o'clock noon on the 15th day of January in the respective years: one landscape architect and one lay member, one-year terms; one artist-sculptor and one architect, two-year terms; one musician and one lay member, three-year terms; one litterateur and one architect, four-year terms; and one artist-painter and one lay member, five-year terms. Upon the expiration of the terms, all successive appointments shall be for a period of five years.

The members of the commission shall serve without compensation. No member of this commission shall receive from the city and county, or from any trust, donation, or legacy, any compensation for any service as an artist for the benefit of the city and county.

A quorum for the transaction of official business of the art commission shall consist of six members thereof.

3.601 Functions, Powers and Duties

No work of art shall be contracted for or placed or erected on property of the city and county or become the property of the city and county by purchase, gift or otherwise, except for any museum or art gallery, unless such work of art, or a design or model of the same as required by the art commission, together with the proposed location of such work of art, shall first have been submitted to and approved by the commission. The term "work of art" as used in this charter shall comprise paintings, mural decorations, stained glass, statues, bas reliefs or other sculptures; monuments, fountains, arches or other structures of a permanent or temporary character intended for ornament or commemoration. No existing work of art in the possession of the city and county shall be removed, relocated or altered in any way without the approval of the commission, except as otherwise provided herein. The commission shall have similar powers with respect to the design of buildings, bridges, viaducts, elevated ways, approaches, gates, fences, lamps or other structures erected or to be erected upon land belonging to the city and county, and concerning arches, bridges, structures and approaches which are the property of any corporation or private individual and which shall extend over or upon any street, avenue, highway, park or public place belonging to the city and county. Said commission shall so act and its approval shall be required for every such structure which shall hereafter be erected or contracted for, and may advise in respect to lines, grades and platting of public ways and grounds.

Nothing herein contained shall be construed to limit or abridge the legal powers of the governing boards of the war memorial, the M. H. de Young Memorial Museum or the california palace of the legion of honor.

The commission shall supervise and control the expenditure of all appropriations made by the board of supervisors for music and the advancement of art or music.

The commission shall exercise all reasonable supervision of policy connected with the arts as may hereafter be assigned to it by ordinance or executive action.

The commission shall decide upon any expenditure of less than one thousand dollars ($1000) within fifteen days after submission, and upon any other matter within thirty days after submission. If it fails so to do, its decision shall be considered unnecessary.

The commission may volunteer advice or suggestion to the owners of private property in relation to the beautification of the same; and any person contemplating to erect any building or make any improvement may submit the plans and designs or sketches thereof

to the art commission for advice and suggestions, for which no charge shall be made by the art commission.

Part Twelve: War Memorial

3.610 Board of Trustees; Composition, Functions, Powers and Duties

The board of trustees of the san francisco war memorial shall, under ordinance, have charge of the construction, administration and operation of said war memorial and of the grounds set aside therefor. The board shall consist of eleven members appointed by the mayor, subject to confirmation by the board of supervisors. The terms of office of the incumbent trustees shall expire as heretofore classified by lot, as follows: the terms of four of said trustees shall expire on the 2nd day of January, 1933; three on the 2nd day of January, 1935; and four on the 2nd day of January, 1937. Thereafter appointments to said board shall be for the term of six years. Vacancies on said board shall be filled by the mayor, subject to confirmation by the board of supervisors, for the unexpired term becoming vacant. In making appointments to said board, the mayor shall give due consideration to veterans of all wars in which the United States may have engaged, and to such other classes of persons who may have a special interest in the purpose for which said war memorial is to be constructed and maintained. The members of said board shall serve without compensation.

3.611 Managing Director; Other Employees

The board of trustees of the san francisco war memorial shall have the power to appoint a secretary and a managing director, each of whom shall hold office at its pleasure, and such other employees as may be provided by the annual budget and appropriation ordinance.

Part Thirteen: California Palace of the Legion of Honor

3.620 Board of Trustees; Composition

The california palace of the legion of honor shall be known as such in perpetuity. The management, superintendence and operation thereof and the lands set aside therefor shall be vested in a board of eleven trustees, of which the mayor and the president of the recreation and park commission shall be ex officio members. All

vacancies occurring in said board shall be filled by the vote of a majority of the remaining members thereof. The number of trustees may be increased from time to time as needed, provided that at no time shall the total number of trustees exceed seventeen. The trustees in office at the time, shall, in their discretion, determine the need for additional trustees. Upon making such determination, the additional trustees shall be elected by the majority of the board then in office. None of said trustees shall receive any compensation for his or her services. Trustees need not be residents of the city and county.

3.621 Functions, Powers and Duties

The board of trustees of the california palace of the legion of honor shall have exclusive charge of the said memorial, the lands set aside therefor, and its affairs, and of all real and personal property thereunto belonging, or which may be acquired by loan, purchase, gift, devise, bequest or otherwise, when not inconsistent with the terms and conditions of the loan, gift, devise or bequest. It shall meet for its purposes at least once in three months, and at such other times as the president or any three members thereof may appoint, in a place to be provided for the purpose.

3.622 Director and Other Employees

The board of trustees of the california palace of the legion of honor shall appoint a director, curators and secretary, who shall hold office at its pleasure. It shall appoint such other assistants and employees as may be necessary, who shall be subject to the civil service and salary standardization provisions of this charter.

3.623 Accounts, Reports and Insurance

The secretary of the board of trustees of the california palace of the legion of honor shall keep a full account of all property, money, receipts and expenditures, and a record of all its proceedings, and shall file annually a report with the controller. The trustees shall have power to insure loan exhibits against any risk.

3.624 Compliance with Terms of the Donation

It is the intention that the administration and control of the california palace of the legion of honor shall be continued with the powers granted and under the conditions imposed by the terms of the donation and accepted by the city and county.

Part Fourteen: The M. H. de Young Memorial Museum

3.630 Board of Trustees; Composition

The M. H. de Young Memorial Museum shall be known as such in perpetuity. The museum and the grounds set aside therefor shall be under the management, superintendence, and operation of a board consisting of eleven trustees, of which the mayor and the president of the park commission shall be ex officio members. All vacancies occurring in said board shall be filled by the vote of a majority of the remaining members thereof. The number of trustees may be increased from time to time as needed, provided that at no time shall the total number of trustees exceed seventeen. The trustees in office at the time, shall, in thier discretion, determine the need for additional trustees. Upon making such determination, the additional trustees shall be elected by the vote of the majority of the board then in office. None of said trustees shall receive any compensation for his or her services.

3.631 Functions, Powers and Duties

The board of trustees of the M.H. de Young Memorial Museum shall have exclusive charge of the said memorial museum, the lands set aside therefor, and its affairs, and of all real and personal property thereunder belonging, or which may be acquired by loan, purchase, gift, devise, bequest, or otherwise, when not inconsistent with the terms and conditions of the loan, gift, devise, or bequest. The trustees shall have power to insure loan exhibits against any risk. The park commission shall maintain and care for the grounds of this memorial museum, and shall furnish the moneys for the necessary repair and embellishment of the grounds and unoccupied parts.

The board of trustees shall have the power to maintain, repair or reconstruct existing buildings and construct new buildings and to make and enter into contracts relating thereto, subject, however, to the budget and annual appropriation ordinance.

The board shall meet for its purposes at least once in three months, and at such other times as the president or any three members thereof may appoint, in a place to be provided for the purpose.

3.632 Director; Other Employees

The board of trustees of the M. H. de Young Memorial Museum shall appoint a director, curators and a secretary who shall hold office at its pleasure. It shall appoint such other assistants and employees as may be necessary, who shall be subject to the civil service and salary standardization provisions of this charter.

3.633 Accounts and Records

The secretary of the board of trustees of the M. H. de Young Memorial Museum shall keep a full account of all property, money, receipts and expenditures and a record of all its proceedings, and shall file annually a report with the controller.

3.634 Compliance with Terms of the Donation

It is the intention that the administration and control of the M. H. de Young Memorial Museum shall be continued with the powers granted and under the conditions imposed by the terms of the donations and accepted by the city and county.

Part Fifteen: California Academy of Sciences

3.640 Facilities Under Direction of Academy

The management, superintendence, and operation of all buildings and other improvements heretofore are hereafter erected by or under the authority of the california academy of sciences, a non-profit corporation organized under the laws of the State of California for the promotion of science, on any property owned or controlled by the recreation and park commission of the City and County of San Francisco, shall be in charge and under the direction of said california academy of sciences. The buildings and improvements hereby referred to include, without limitation, the steinhart aquarium, the original natural history museum and the simson african hall, located in golden gate park and erected by or under the authority of the california academy of sciences, together with the additions thereto for the purpose of housing, among other things, the Alexander F. Morrison Planetarium, and auditorium, erected by said california academy of sciences.

3.641 Relationship with City and County

In addition to all other approvals required by law, plans for all proposed buildings and improvements of the california academy of sciences including any additions, must be approved by the recreation and park commission and the art commission. The recreation and park commission, notwithstanding any provisions of the charter to the contrary, is hereby authorized, subject to approval by the board of supervisors by ordinance, to set apart from time to time such portions of property under its control, as may be required for such buildings and improvements, sufficient grounds being allotted to secure the safety of the same from fire.

The erection of buildings or additions to buildings shall not be started by the california academy of sciences until it shall have submitted a statement satisfactory to the recreation and park commission of its ability to finance the proposed work to completion. All buildings and improvements heretofore or hereafter erected by or under the authority of said california academy of sciences in or on property owned or controlled by the City and County of San Francisco are and shall become the property of the City and County of San Francisco, but said buildings and improvements and all persons employed therein or thereabout shall be used and controlled exclusively by the said california academy of sciences under such proper rules and regulations as it may prescribe, subject, however, to the charter provisions relating to civil service and salary standardization with respect to employees of the city and county. The board of supervisors shall, by ordinance, prescribe the insurance to be furnished by the california academy of sciences to save the city and county harmless from claims for damages to persons or property arising from the construction or use of any of said buildings. Reasonable and appropriate charges may be made by the california academy of sciences for admission to or use of the Alexander F. Morrison Planetarium and auditorium.

3.642 Memorial Buildings

Particular buildings or improvements or portions thereof may be named in memory of persons designated by the california academy of sciences.

3.643 Reports

Not later than the first day of April in each year the california academy of sciences shall file with the mayor and the board of supervisors a statement for the last fiscal year of its expenses and income in connection with the use and operation of each of the buildings included herein.

3.644 Compliance with Terms of Trust

Nothing herein contained shall abrogate any trust under and by which any property of the california academy of sciences has been or shall hereafter be accepted by the city and county or under and by which it is now or shall hereafter be held.

Part Sixteen: Board of Permit Appeals

3.650 Board Composition

The mayor shall appoint five qualified electors, other than city and county officials or employees, for terms of four years, to constitute a board of permit appeals. The compensation for each member shall be fifteen dollars ($15) per meeting of the board actually attended by such members provided that the total amount paid all members of the board shall not exceed five thousand dollars ($5,000) per year. One such term shall expire at twelve o'clock noon on the 15th day of January in each of the years 1933, 1934 and 1935, and the remaining two terms at twelve o'clock noon on the 15th day of January, 1936, and upon these and successive expirations the mayor shall appoint their successors for four-year terms.

3.651 Functions, Powers and Duties

Any applicant for a permit or license who is denied such permit or license by the department authorized to issue same, or whose license or permit is ordered revoked by any department, or any person who deems that his interests or property or that the general public interest will be adversely affected as the result of operations authorized by or under any permit or license granted or issued by any department, may appeal to the board of permit appeals. Such board shall hear the applicant, the permit-holder, or other interested parties, as well as the head or representative of the department issuing or refusing to issue such license or permit, or ordering the revocation of same. After such hearing and such further investigation as the board may deem necessary, it may concur in the action of the department authorized to issue such license or permit, or, by the vote of four members, may overrule the action of such department and order that the permit or license be granted, restored or refused.

The board of permit appeals shall have and exercise the following powers:

(a) To hear and determine appeals where it is alleged there is error or abuse of discretion in any order, requirement, decision or determination made by the zoning administrator in the enforcement of the provisions of any ordinance adopted by the board of supervisors creating zoning districts or regulating the use of property in the city and county;

(b) To hear and determine appeals from the rulings, decisions and determinations of the zoning administrator granting or denying applications for variances from any rule, regulation, restriction or requirement of the zoning or set-back ordinances, or any section

thereof. Upon the hearing of such appeals said board may affirm, change, or modify the ruling, decision or determination appealed from, or, in lieu thereof, make such other additional determination as it shall deem proper in the premises, subject to the same limitations as are placed upon the zoning administrator by this charter or by ordinance.

Part Seventeen: Civil Service Commission

3.660 Commission; Composition; Meetings

There is hereby established a civil service commission which is charged with the duty of providing qualified persons for appointment to the service of the city and county.

The civil service commission shall consist of three members appointed by the mayor. The commissioners in office at the time of the adoption of this charter, and this charter section as amended, shall continue in office until the expiration of the terms for which they were appointed, and their successors shall be appointed for terms of six years beginning on the 1st day of July immediately following the expiration of the terms for which they were appointed.

The persons so appointed shall, before taking office, make under oath and file in the office of the county clerk the following declaration: "I am opposed to appointments to the public service as a reward for political activity and will execute the office of civil service commissioner in the spirit of this declaration."

A commissioner may be removed only upon charges preferred, in the same manner as in this charter provided for elective officers. Each of the commissioners shall receive a monthly salary of one hundred dollars($100).

Special meetings of the commission for the purpose of considering and adopting examination questions shall not be open to the public. The regular meetings of the civil service commission shall be open to the public and held at such a time as will give the general public and employees of the city and county adequate time within which to appear before the commission after the regular daily working hours of 8 A.M. to 5 P.M. Such person or persons shall be given an opportunity to be heard by the commission before final action is taken in any case involving such person or persons.

3.661 General Powers and Duties

(a) The civil service commission shall be the employment and personnel department of the city and county and shall determine appointments on the basis of merit and fitness, as shown by

appropriate tests. The commission shall classify, and from time to time may reclassify, in accordance with duties and responsibilities of the employment, and training and experience required, all places of employment in the departments and offices of the city and county not specifically exempted by this charter from the civil service provisions thereof, or which may be created hereafter by general law and not specifically exempted from said civil service provisions. The commission shall likewise classify all other positions or other places of employments in the city and county service specifically exempted from the civil service provisions of this charter, but which, by the provisions of section 8.401, thereof, are made subject to classification for salary standardization purposes on the basis of duties and responsibilities of the employment and training and experience required. The civil service commission shall be the judge of such classification.

The commission shall also, in accordance with duties and responsibilities, allocate, and from time to time may reallocate, the positions to the various classes of the classification. The allocation or re-allocation of a position shall not adversely affect the civil service rights of an occupant regularly holding such position. No person shall hold a position outside of the classification to which he has been appointed, provided that every employee of any department or office shall discharge any of the duties pertaining to such department or office to which his chief may temporarily assign him.

The class titles and class numbers assigned to positions by the commission shall be used in all records, reports, statements and communications, including the compensation schedule, annual budget and salary ordinance, payrolls, and appropriation ordinances.

The commission shall adopt rules to carry out the civil service provisions of this charter and, except as otherwise provided in this charter, such rules shall govern applications; examinations; eligibility; duration of eligible lists; certification of eligibles; appointments; promotions; transfers; resignations; lay-offs or reduction in force, both permanent and temporary, due to lack of work or funds, retrenchment, or completion of work; the filling of positions, temporary, seasonal and permanent; classification; approval of payrolls; and such other matters as are not in conflict with this charter. The commission may, upon one week's notice, make changes in the rules, which changes shall thereupon be printed, and be in force; provided that no such change in rules shall affect a case pending before the commission. The secretary may certify eligibles and payrolls and conduct examinations under the rules of the commission.

The commissioners shall have power to institute and prosecute

legal proceedings for violations of any of the civil service provisions of this charter.

(b) The civil service commission shall establish an inspection service for the purpose of investigating the conduct of and action of appointees in all positions and of securing records of service for promotion and other purposes. All departments shall cooperate with the commission in making its investigations and any person hindering the commission or its agents shall be subject to suspension.

Part Eighteen: Retirement Board

3.670 Board Composition

The retirement system shall be managed by a retirement board, which is hereby created, and which shall be the successor and have the powers and duties of the board of administration, the board of trustees of the police relief and pension fund, and the board of fire pension fund commissioners. The retirement board shall consist of the president of the board of supervisors, three members to be appointed by the mayor, and three members elected from the active members, who shall not include retired persons of the retirement system. The members appointed by the mayor shall either hold a degree of doctor of medicine, or shall be experienced in life insurance, actuarial science, employee pension planning, or investment portfolio management, and shall be appointed by the mayor from among three persons whose names shall have been submitted to him for each such appointment by a committee consisting of two members each of the San Francisco Medical Society, Bar Association of San Francisco, San Francisco Real Estate Board and the Greater San Francisco Chamber of Commerce; provided, however, that there shall not be, at any one time, more than one appointed member who holds a degree of doctor of medicine. The term of office of the six members, other than the president of the board of supervisors, shall be five years, and the terms presently in effect for appointed and elected members shall continue to apply. The members of the retirement board shall serve without compensation. Subject to the civil service provisions of this charter, the retirement board shall appoint a secretary-general manager.

3.671 Functions, Powers and Duties

The retirement board shall be the sole authority and judge, under such general ordinances as may be adopted by the supervisors, as to the conditions under which members may receive and may continue to receive benefits of any sort under the retirement system, and shall have exclusive control of the administration and investment of such

fund or funds as may be established, provided that all investments shall be of the character legal for insurance companies in California.

3.672 Secretary-General Manager and Actuary

The retirement board shall appoint an actuary, who shall hold office at its pleasure, and the board shall employ a consulting actuary. The secretary-general manager or actuary shall have the power to administer oaths and affirmations in all matters pertaining to the business of the retirement system.

Part Nineteen: Health Service Board

3.680 Board Composition

The health service board shall consist of seven members as follows: the chairman of the finance committee of the board of supervisors, the city attorney, two members appointed by the mayor one of whom shall be a resident official of an insurance company and the other a doctor of medicine, and three members elected by the members of the system from among their number. The city attorney may designate, by written document filed with the board, an assistant city attorney to attend board meetings and to act for him in his place. The terms of office of the members, other than the two ex-officio members, shall be five years, one term expiring on May 15 of each year. The term of one of the elective members shall expire in each of the following years and every five years thereafter; 1959, 1961 and 1963. The term of one of the members appointed by the mayor shall expire in each of the following years and every five years thereafter; 1960 and 1962.

Each member of the health service board shall give bond in the sum of ten thousand dollars ($10,000), the premium on which shall be paid out of the funds of the system. A vacancy in the offices appointive by the mayor shall be filled by appointment by the mayor for the unexpired term. A vacancy in an elective office shall be filled by a special election to be completed within sixty days after the vacancy occurs unless a regular election is to be held and completed within six months after such occurrence. Candidates for elective membership on the health service board shall be nominated by a written nomination of twenty members filed with the registrar of voters not earlier than April 1st nor later than April 15th of each year in which a vacancy occurs. The registrar of voters shall prepare ballots and shall furnish the same to all members of the system between April 15th and April 25th and shall receive the ballots between April 25th and May 7th and canvass and certify the results on May 8th. The registrar of voters shall have the power to make

such regulations respecting the form, distribution and canvassing of the ballots as may be necessary to secure secrecy of the ballots and prevent fraud. The persons equal in number to the number to be elected who receive the greatest number of votes shall be declared elected. Not more than one employee of any one department or office may be a member of the health service board.

3.681 Powers and Duties

In addition to the powers and duties provided in Chapter Four of Article 8, the health service board shall have power and it shall be its duty:

(a) To establish and maintain detailed historical costs for medical care, hospital care.

(b) To review such costs annually.

(c) To apply benefits without special favor or privilege.

(d) To put said plans into effect and through its medical director to conduct and administer the same and, for all or any of said purposes, to contract therefor and use the funds of the system.

(e) To make rules and regulations for the transaction of its business, the granting of exemptions and the admission to the system of persons who are hereby made members thereof and such other officers and employees as may voluntarily become members of the system with the approval of the health service board.

(f) To receive, consider and, within sixty (60) days after receipt, act upon any matter pertaining to the administration, operation or conduct of the health service system submitted to it in writing by any member of the system or any person who has contracted to render medical care to the members of the system.

3.682 Medical Director or Executive Officer

The health service board shall appoint a full time medical director who shall be a doctor of medicine with the experience in administering health plans or in comparable work. He shall hold office at its pleasure. The medical director shall have all of the powers and responsibilities of an appointing officer, a department head, and a chief executive under the provisions of the charter. The health service board shall administer the system through the medical director. The medical director shall be responsible to the health service board as a board, but not to any individual member or committee thereof. Instead of a full-time medical director, the board may appoint a full-time executive officer who is not a doctor of medicine, but with experience in administering health plans or in comparable work, and a part-time medical advisor who shall be a doctor of medicine with such experience, and both of whom shall

hold office at its pleasure. If an executive officer is appointed, the provisions of this and other sections which would apply otherwise to the medical director shall apply equally and instead to the executive officer. The health service board and each committee of the board shall confine its activities to policy matters and to matters coming before it as an appeal board. The health service board shall prepare its plans, rules and regulations so that they are clear, definite and complete and so that they can be readily administered by the medical director and his staff.

Part Twenty: Airports Commission

3.690 Commission; Composition

An airports commission is hereby created, which shall consist of five members, who shall be appointed by the mayor and who shall be subject to recall and to suspension and removal in the same manner as elective officers. The term of each commissioner shall be four years, provided that the first five commissioners to be appointed by the mayor to take office upon the effective date of this charter section, shall, by lot, classify their terms so that the term of one commissioner shall expire at twelve o'clock noon on each of the first, second and third anniversaries of such date, respectively, and the terms of the remaining two commissioners shall expire at twelve o'clock noon on the fourth anniversary of said effective date; and on the expiration of these and successive terms of office, the mayor shall appoint commissioners for four-year terms. The compensation of each commissioner shall be one hundred dollars ($100) per month.

All rights, claims, actions, orders, obligations, proceedings and contracts relating to the airport department under the public utilities commission existing prior to the effective date of these amendments shall not be affected by the adoption thereof, and shall thereafter be under the jurisdiction of the airports commission.

3.691 Powers and Duties

The airports commission shall have and succeed to all powers and duties in the management and control of San Francisco International Airport heretofore vested in the public utilities commission. The airports commission shall have possession, management, supervision, operation and control of said airport and of all other airport properties wherever situated as it may acquire or which may be placed under its control. In locating and determining the character and type of improvements and additions, betterments or extension to airport properties under its control, the commission shall in each

case first secure the written recommendation of the director of airports, including analysis of cost, service and estimated revenue of all proposed alternatives determined feasible by said director. Subject to the provisions of section 7.400 of this charter, the commission shall have the power to purchase, lease or otherwise acquire all such lands, property, improvements or related facilities as it may deem necessary or convenient in the exercise of the authority granted hereunder. Nothing contained herein shall authorize the commission to construct, operate or maintain, at any location outside the boundaries of an airport, systems or facilities for the surface or sub-surface transportation of persons or property, provided, however, that the commission is authorized to expend funds for planning such facilities either inside or outside the boundaries of the airport.

Subject to the provisions of section 3.598 of this charter, the airports commission shall have power to fix, change and adjust rates and charges for the furnishing of services.

3.692 Airport Departments and Bureaus

The following divisions shall be established under the airports commission: the division of business administration; the division of operations; and the division of planning and development. In addition, the commission may create a bureau of engineering and such other bureaus as it may find necessary for the handling of matters that do not pertain exclusively to any one airport division, and subject to approval of the commission, the director of airports shall appoint or remove the heads of such bureaus, exlusive of the civil service provisions of this charter. The commission shall also appoint a secretary who shall be exempt from the civil service provisions of this charter.

3.693 Director of Airports

The airports commission shall appoint a director of airports, who shall hold office at the pleasure of the commission. The director of airports shall have full power and authority to administer the affairs of the commission as the chief executive officer thereof. Subject to approval of the commission, the director shall appoint or remove the heads of airport divisions under the commission's jurisdiction. The heads of airport divisions shall be exempt from the civil service provisions of this charter; provided, however, that said director and each division head so appointed shall possess the necessary executive, administrative and technical qualifications for his respective position.

In addition to the powers and duties conferred upon him as elsewhere provided in this charter, the director of airports shall have the power and it shall be his duty: (a) to enforce all orders, rules and

regulations adopted by the commission relating to the regulation, operation or control of the funds, facilities, property and equipment of said commission; (b) to supervise and manage the design, construction, maintenance and operation of all work or works authorized by the commission and to that end, subject to its control and guidance, the commission shall have the power to delegate to him such necessary powers and duties as are by this charter conferred upon said commission.

The director of airports shall also have the power to designate and assign by written permit lands, improvements, space or areas in any hangar or other building at any airport operated or controlled by the commission at the duly established rates or charges for the use thereof and subject to the applicable rules and regulations governing same. Each such permit shall be revocable by the director of airports without compensation to the permittee upon due notice to be stated therein.

3.694 Legal Advisor

The city attorney, as the legal adviser of the commission, may, with the approval of the commission, compromise, settle or dismiss any litigation or proceedings which may be pending for or on behalf of or against said commission relative to any matter or property under its jurisdiction. He shall detail to the commission such attorneys as the commission may deem necessary, subject to the approval of the commission as to each such attorney or assistant so assigned. The commission shall have authority, subject to the approval of the mayor, to appoint special counsel for temporary purposes. The compensation of all such attorneys shall be paid by the commission from the Airports Revenue Fund.

Chapter Six: General Powers and Duties of Officers

3.700 Powers and Duties of County Officers

Each county officer shall have all the powers conferred and shall discharge all the duties imposed by general laws upon said officer of a county or a city and county of this state, and shall have such other powers and duties as in this charter specifically provided.

3.701 Powers of Hearing and Inquiry

The mayor, the chief administrative officer, the controller, or any board or commission appointed by the mayor relative solely to the affairs under its control, may require such periodic or special reports of departmental costs, operation and expenditures, examine the books, papers, records and accounts of, and inquire into matters

affecting the conduct of any department or office of the city and county, and for that purpose may hold hearings, subpoena witnesses, administer oaths and compel the production of books, papers, testimony and other evidence. It shall be the duty of the chief of police to designate a police officer to serve subpoenas. Any person refusing to obey such subpoena and the other requirements hereof, or to produce such books, shall be deemed in contempt and subject to proceedings and penalties as provided by general law in such instances.

ARTICLE IV.

THE JUDICIAL BRANCH

4.100 Municipal Court

The powers and duties of the municipal court of the city and county shall be as established by the constitution and general law, and said municipal court shall be as constituted and regulated by this charter, except as otherwise provided by general law. The compensation of said judges shall be in full for all services, and any fees required to be collected by law by the municipal court or the clerk thereof shall be paid into the treasury of the city and county. No judge of the municipal court shall practice law in or out of court during his continuance in office.

The presiding judge shall supervise and direct the work of the clerk of the municipal court, and shall be responsible for the proper keeping of records and making of reports by the clerk.

4.101 Municipal Court Regulations and Reports

The judges of the municipal court shall meet at least once in each month, and at such other times as the presiding judge may require, and shall prescribe rules and regulations not inconsistent with general laws as are necessary and proper for the advancement of justice and prevention of delay in the business of the court.

Not later than the tenth day of each month, the presiding judge, through the clerk of the municipal court, shall file with the board of supervisors a consolidated report of the business of the court and the judges thereof for the preceding month. Copies of such reports shall be filed with the city attorney, the district attorney, the chief of police and the clerk of the municipal court. In January of each year, the presiding judge, through the clerk, shall file a similar report covering the preceding calendar year. The board of supervisors may cause copies of such annual reports to be printed for free distribution to citizens who request them.

4.102 Clerk of the Municipal Court

The clerk of the municipal court shall be appointed by the judges of the court, and shall hold office at their pleasure. The clerk shall appoint, subject to the civil service provisions of this charter, such clerks, stenographers, interpreters and other personnel as may be authorized by appropriation ordinaces of the board of supervisors; provided, however, that the sheriff shall, on the order of the court, detail necessary bailiffs to the civil departments thereof, and shall execute the orders and processes issued by the court. The salaries of the clerk and the personnel of the clerk's office shall be fixed by the board of supervisors, as provided by this charter for other city and county employees. The clerk shall have charge, superintendence and control of said office and the personnel thereof, and be responsible for records and reports incidental to the business of the court. He shall have the powers and duties prescribed by general law not inconsistent with this charter.

4.103 Superior Court Appointments

The powers and duties of the superior court are prescribed by state law. The board of supervisors shall provide for the maintenance of the superior court in accordance with the fiscal provisions of this charter.

4.104 Law Library

The San Francisco Law Library, established under an act of the Legislature approved March 9, 1870, shall be under the management and control of the board of trustees, which shall consist of seven appointive members of the San Francisco bar, and the mayor, the presiding judge and the three judges of the appellate department of the superior court, ex officio. All vacancies on said board shall be filled by said board.

The board of trustees shall appoint and at its pleasure may remove a librarian, who shall be its executive officer, and such assistants as are necessary for the proper conduct and operation of the library. The salaries of the librarian and the assistants and employees shall be fixed by the board of supervisors as provided by this charter for other city and county employees.

The supervisors shall provide suitable and sufficient quarters for the law library, fix up and furnish the same and provide for the supply of necessary light, heat, stationery and other conveniences. The library shall be so located as to be readily accessible to the judges and the officers of the court.

The county clerk and the clerk of the municipal court shall collect

the fees provided for law libraries by general law and the fees so collected by such officers or by any officers under any other provisions of the law shall be paid to the treasurer of the law library monthly, and shall constitute a law library fund to be expended by the law library trustees in the purchase of books and periodicals, and in the establishment and maintenance of the law library.

The judiciary, city, county and state officials, members of the bar and all inhabitants of the City and County of San Francisco shall have free access, use and enjoyment of the law library, subject to rules and regulations of the board of trustees.

4.105 Probation Boards

The adult probation committee and the juvenile probation board or committee shall continue to exercise their respective powers and duties as fixed by state laws, except as in this charter otherwise provided.

The superior court judges of the city and county presiding in the department or departments for the hearing and disposition of criminal cases and proceedings shall, by order entered in the minutes of the court in the criminal department or departments thereof, appoint the adult probation officer.

A majority of the superior court judges of the city and county shall, by order entered in the minutes of the court in the department of the presiding judge, appoint the chief probation officer of the juvenile court, such appointment to be based on specified professional qualifications to be established and published by a majority of the judges of the superior court.

The chief probation officer of the juvenile court may be removed only by a vote of a majority of the judges of the superior court. The chief probation officer, prior to his removal, may request a hearing before a committee of five judges appointed by the presiding judge.

The adult probation officer shall appoint such assistants, deputies and employees as may be allowed or provided by the board of supervisors, subject to confirmation by the adult probation board or committee created by state law.

The chief probation officer of the juvenile court shall appoint such assistants, deputies and employees as may be allowed or provided by the board of supervisors, subject to confirmation by the juvenile probation board or committee created by state law.

The salaries of the adult probation officer, the chief probation officer of the juvenile court, their assistants, deputies and employees shall be fixed by the board of supervisors in the same manner as for other officials and employees of the city and county.

The adult probation officer, the chief probation officer of the

juvenile court and their assistants and deputies shall have the powers conferred upon adult probation officers, probation officers of the juvenile court, their assistants and deputies, by the laws of the State of California; and they shall perform all of the duties prescribed by such laws, and such additional duties as may be prescribed by ordinances of the board of supervisors.

The civil service provisions of this charter shall apply to and govern the assistants, deputies and employees of the adult probation officer and of the chief probation officer of the juvenile court. For purposes of this charter the adult probation officer shall be the appointing officer as to his assistants, deputies, and employees, subject to confirmation as aforesaid; and the said chief probation officer of the juvenile court shall be the appointing officer as to his assistants, deputies and employees, subject to confirmation as aforesaid.

The pension and retirement provisions of this charter shall apply to and govern the adult probation officer, the chief probation officer of the juvenile court, their assistants, deputies and employees.

ARTICLE V.

THE SCHOOLS

5.100 Board of Education

All of the public schools of the school district of the city and county shall be under the control and management of a board of education, composed of seven commissioners, who, commencing with a special municipal election to be consolidated with the direct primary in 1972, shall be elected at large by the voters of the city and county and who shall be subject to recall, and to suspensions and removal in the same manner as elective officers, as provided by this charter. The compensation of each member shall be one hundred dollars ($100) per month. Vacancies occurring on said board shall be filled by the mayor for the unexpired terms.

5.101 Powers and Duties

In addition to the powers conferred by the general laws of the state and other provisions of this charter, the board of education shall have power to establish and maintain such schools as are authorized by the laws of the state as the board may determine, and to change, modify, consolidate or discontinue the same as the public welfare may require.

The board shall also have power to employ such teachers and other persons as may be necessary to carry into effect its powers and duties; to fix, alter and approve their salaries and compensations, except as in this charter otherwise provided, and to withhold for good and sufficient cause the whole or any part of the wages, salary, or compensation of any person or persons employed as aforesaid; and to promote, transfer and dismiss teachers, but no teacher shall be dismissed from the department except for insubordination, immoral or unprofessional conduct, or evident unfitness for teaching. Appointment, promotion, assignment and transfer of deputy superintendents, principals, assistants, teachers and all other certificated employees shall be made by the board of education upon the recommendation of the superintendent of schools. All promotions of teachers shall be based solely on merit. Nothing in this section shall be construed to prevent the board from removing teachers as provided in this charter and the laws of the state. Charges against teachers must be made in writing by the superintendent after investigation and shall be finally passed upon by the board after giving the accused teacher a fair and impartial hearing before said board.

All teachers shall be classified as permanent employees in their respective positions after they have been successfully employed in such positions in the school department for a probationary period of three years. All heads of departments, vice-principals, principals, supervisors and directors who are appointed prior to July 1, 1971 shall be classified as permanent employees in their respective positions after they have been successfully employed in such positions in the school department for a probationary period of three years. In the absence of any action to the contrary by the board of education at the end of the third year of such employment, the classification shall be considered as permanent. All heads of departments, vice principals, principals, supervisors and directors who are appointed on or after July 1, 1971 or who are otherwise determined not to be permanent employees shall be employed pursuant to four year contracts with the board of education which contracts shall be subject to renewal based upon achieving and maintaining standards of performance, which standards of performance shall be governed by rules and regulations as promulgated by the board of education.

Non-teaching and non-technical positions, and positions not required by law to be filled by a person holding a teaching or other certificate as required by law, shall be employed under the civil service provisions of this charter and the compensations of such persons shall be fixed in accordance with the salary standardization provisions of this charter.

The board of education shall have power to grant and to renew, and, for insubordination, immoral or unprofessional conduct or unfitness for teaching, to revoke teachers' certificates.

The board shall establish regulations subject to the approval of the controller for the disbursement of all moneys belonging to the school department or the school fund or funds, and to secure strict accountability in the expenditure thereof, and to provide for the prompt payment of all salaries due and allowed to officers, teachers, and other employees of the school department.

Notwithstanding any other provision of this charter to the contrary, the board of education of the San Francisco Unified School District may authorize payment of the annual compensation of certificated employees in twelve equal payments, the first such equal payment being made on or before the 5th day of August of each school year, and continuing each month thereafter until the full annual compensation shall be paid, provided that the last equal payment shall be made not later than the 5th day of July of the succeeding school year, and provided further that in the event that the certificated employee for any reason does not perform the full year of service, said certificated employee shall receive only such amount as is authorized by the school code of the State of California. In the event said certificated employee has been paid an amount greater than such employee is entitled to receive under the provisions of the school code of the State of California, said certificated employee shall be liable therefor and within thirty days after such excess payment said certificated employee shall reimburse the San Francisco Unified School District for the excess, and said certificated employee shall not be paid any of his retirement accumulations or credits until the San Francisco Unified School District has been reimbursed for the said excess.

The board shall, between the 1st and 21st days of May of each year, adopt a schedule of salaries for the next ensuing fiscal year for teachers and other employees of the school department. Compensations of non-teaching and non-technical employees shall be fixed in accordance with the salary standardization provisions of this charter.

The superintendent of schools shall be the executive officer of the board of education. He shall be appointed by said board to serve for a term of four years and he shall receive an annual salary of $10,000 unless an increase in said salary shall be fixed by the board of education and approved by the board of supervisors.

During his term of office the superintendent may be removed from his office, as in this section hereinafter provided, for misconduct or incompetency after charges setting forth the nature and character of said misconduct or incompetency are filed against the

said superintendent. Said charges must be in writing and shall be signed by at least two members of the board of education. A copy of said charges, together with a notice of the time and place of the hearing on the same, shall within five days after the filing of the same be served upon the said superintendent. The mailing of a copy of said charges, with notice of time and place of hearing on the same, by United States registered mail, with the proper amount of postage prepaid thereon, addressed to said superintendent at his last known place of residence, shall be deemed to be a service of said charges as provided for in this section. A public hearing on said charges shall be had by the board of education not less than ten, nor more than twenty days after the filing of said charges, provided that full power and authority is hereby given to the board of education to continue said hearing from time to time not to exceed sixty days from the commencement thereof, provided that for good cause said board may grant a further continuance on said hearing. The superintendent shall have the right to answer said charges, to appear at the hearing thereof and to be represented by counsel thereat for the purpose of defending himself against said charges. Pending the determination of said charges, the superintendent may be suspended from his office by a majority vote of the board of education, and the board may appoint a qualified person to discharge the duties of said superintendent during the period of suspension. If the board of education after hearing said charges shall by a two-thirds vote of all the members, determine that said charges have been sustained, it may by the same vote remove said superintendent from his office. No member of the board shall be entitled to vote on the removal of said superintendent unless he or she has been present at the entire hearing of such charges, provided that any member of the board who has not been present may vote for the removal of the superintendent, if such member has read a transcript of all the testimony taken on said hearing during his absence therefrom, and shall file with the board an affidavit to this effect. If said charges are not sustained by a two-thirds vote of all the members of said board, or if after said charges are sustained, the superintendent is not removed from office as a result thereof, said superintendent shall be reinstated in his position and shall be allowed his salary for the time that he has been under suspension, together with the costs of defending himself against said charges, including a reasonable fee for his attorney to be fixed and allowed by the board. If the charges are sustained, and as a result thereof said superintendent is removed from office, no further salary shall be allowed to said superintendent from the date of his suspension. In the hearing and determination of said charges filed against said superintendent, the judgment of said board of education

shall be final unless in determining the sufficiency of said charges said board of education commits a clear abuse of discretion.

The superintendent shall have the powers and duties specified by this charter for department heads, in addition to such powers and duties as are fixed by general law.

The positions of superintendent and associate and assistant superintendents shall be held only by persons of expert or technical training, but shall not be subject to any provisions of this charter prescribing a residence qualification for officers or appointees, provided however, that during their incumbency appointees to such positions shall reside in the city and county, and in case any appointee shall fail so to do, his appointment shall at once be revoked by the board.

The superintendent may appoint a confidential secretary who shall hold office at his pleasure.

5.103 Non-Certificated School Cafeteria Employees

All non-certificated public school cafeteria employees of the San Francisco Unified School District, except those holding part-time positions, which are within the limitations as set forth in section 8.300 (a) (2) of this charter shall be governed by and shall be subject to the civil service and other provisions of this charter.

5.104 Board of Education—Community College District

Notwithstanding the provisions of section 5.100 or of any other provisions of this charter, on and after August 8, 1972, the community college district of the city and county shall be under the control and management of a board of education, hereinafter referred to as the governing board of said district, composed of seven members who are not members of the board of education of the unified school district of the city and county and who shall be elected at large by vote of the electors as in this section provided and who shall be subject to recall, and to suspensions or removal in the same manner as elective officers, as provided by this charter. The compensation of each member shall be one hundred dollars ($100) per month.

At a special municipal election to be consolidated with the direct primary in 1972 there shall be elected seven members of the governing board of the community college district of the city and county. The term of each member shall be four years; provided, however, that the respective terms of office of the members first elected shall commence at twelve o'clock noon on the 8th day of August, 1972, and shall expire as follows: the respective terms of office of the four members receiving the highest number of votes

respectively at said election shall expire at twelve o'clock noon on the 8th day of January, 1977; the respective terms of office of the three members receiving the next highest number of votes respectively shall expire at twelve o'clock noon on the 8th day of January, 1975.

At the general election in 1974 there shall be elected three members of the governing board of the community college district of the city and county to succeed those members thereof whose respective terms of office expire on the 8th day of January, 1975, and at the general election in each fourth year after 1974, the successors to said three members of the governing board of the community college district shall be elected, and at the general election in 1976 there shall be elected four members of the governing board of the community college district of the city and county to succeed those members thereof whose respective terms of office expire on the 8th day of January, 1977, and at the general election in each fourth year after 1976, the successors to said four members of the governing board of the community college district of the city and county shall be elected. Except as set forth herein, all terms of office of members of the governing board of the community college district of the city and county shall commence at twelve o'clock noon on the 8th day of January following the date of their election.

The superintendent of the community college district shall be the executive officer of the governing board. He shall be appointed by said board to serve for a term of four years at an annual salary to be fixed by the board. Otherwise the provisions of sections 5.101 and 5.102 of this charter apply to the community college district.

ARTICLE VI.

THE BUDGET AND FISCAL ADMINISTRATION

Chapter One: Fiscal Year

6.100 Date of Commencement

The fiscal year for the city and county shall begin on the 1st day of July of each year.

Chapter Two: The Budget

6.200 Preparation and Submission of Budget Estimates

The budget estimate for every department and office of the city and county, whether under an elective or an appointive officer or a

board or commission, and separately for each utility under the control of the public utilities commission, shall be filed by the executive of such department with, and shall be acted upon by, such board or commission. All budget estimates shall be compiled in such detail as shall be required on uniform blanks furnished by the controller. The public utilities commission and the board of education must hold public hearings on their respective budget proposals. Each such elective and appointive officer, board or commission shall, not later than the 1st day of February of each year, file with the controller for check as to form and completeness two copies of the budget estimate as approved.

The chief administrative officer shall obtain in ample time to pass thereon budget estimates from the heads of departments or offices subject to his control, and, after adjusting or revising the same, not later than the 1st day of February he shall transmit such budget estimates to the controller.

The controller shall check such estimates and shall upon his request, be furnished with any additional data or information. Not later than the 1st day of March of each year he shall consolidate such budget estimates and transmit the same to the mayor.

He shall at the same time transmit to the mayor a summary and recapitulation of such budget estimates, segregated by separate departments or offices and units thereof, or by purposes for non-departmental expenditures, and arrange according to classification of objects of expenditure, as required by the controller, to show the amount of proposed expenditures and estimated revenues in comparison with the current and previous fiscal year's expenditures and revenues.

He shall submit at the same time (1) statements showing revenues and other receipts, including the estimated unencumbered surplus in any item or fund at the beginning of the ensuing fiscal year, segregated according to specific or general purposes to which such revenues or receipts are legally applicable, for the last complete fiscal year and for the first six months of the current fiscal year, with estimates thereof for the last six months of the current fiscal year, together with estimates of such revenues and receipts for the ensuing fiscal year; (2) statements of the amounts required for interest on, and sinking fund or redemption of, each outstanding bond issue, and for tax judgments, and other fixed charges, together with estimates of interest required on bonds proposed to be sold during the ensuing fiscal year, and statements of the city's authorized debt, and judgments outstanding at the time the budget estimates are submitted.

6.201 Form of Budget Estimates

The classification of proposed expenditures included in budget estimates shall be uniform for all departments, offices, bureaus, divisions and branches. The estimates shall include or be accompanied by the following information:

(1) An itemized estimate of the total expense of conducting each department, bureau, division, office or board for the ensuring fiscal year, together with a separate schedule of the proposed work program.

(2) Statements of the expenditures by items for the last complete fiscal year, and for the first six months of the current fiscal year, together with an estimate of probable expenditures by items for the last six months of the current fiscal year.

(3) The reasons for proposed increases or decreases, as compared with the current fiscal year, in any items of the proposed estimate.

(4) A schedule of positions and compensations showing any increases or decreases requested in the number of positions or rates of pay.

(5) Such other information as the mayor or the chief administrative officer may deem desirable.

6.202 Preparation and Submission of Capital Improvement Program

Each officer, board and commission shall annually, on or before the first day of October, file with the department of city planning a schedule describing all capital improvement projects which are proposed for inclusion in the budget for the ensuing fiscal year, together with a schedule of all capital improvement projects which in the opinion of such officer, board or commission should be undertaken in the five succeeding years.

The department of city planning shall prepare and submit to the mayor, the board of supervisors, the controller, and each officer, board, or commission concerned, on or before the 20th day of January, a report recommending a program of capital improvements based on the projects submitted.

The report shall state whether each of the proposed capital improvement projects conforms to the master plan, and if conflict exists, the report shall give the particulars of the differences between the proposed capital improvement projects and the master plan; provided, however, that if any such capital improvement project does so conflict, it shall be the duty of the department of city planning, prior to the submission of its related report, to confer with the officer, board, or commission concerned for the purpose of modifying either the project plan or the master plan in an endeavor to eliminate conflict as far as may be possible.

The report shall also include the recommendations of the department of city planning for additional capital improvement projects and for the advance planning and acquisition of land necessary for the development of all capital improvement projects.

Requests for supplemental appropriations for capital improvement projects, which projects have not been previously submitted to the department of city planning, shall be subject to all of the provisions herein contained except time, and the department of city planning shall report on each such proposal within thirty days from the date that each such proposal is filed with it.

The board of supervisors shall not appropriate any money for any capital improvement project which has not been referred to and reported on by the department of city planning in accordance with the provisions of this section.

The department of city planning shall report to the board of supervisors within the time limits herein established.

6.203 Powers and Duties of the Mayor

The mayor shall hold such public hearings on these budget estimates as he may deem necessary and may increase, decrease or reject any item contained in the estimates, excepting that he shall not increase any amount nor add any new item for personal services, materials, supplies or contractual services, but may add to the requested appropriations for any public improvement or capital expenditure; but he shall add to requested appropriations for any public improvement or capital expenditure only after such items have first been referred to the department of city planning and a report has been rendered thereon regarding conformity with the master plan. It shall be the duty of the department of city planning to render its reports in writing within thirty days after said referral. Failure of the department of city planning to render any such report in such time shall be deemed equivalent to a report. The budget estimates of expenditures for any utility, within the estimated revenues of such utility, shall not be increased by the mayor.

Not later than the 15th day of April in each year, the mayor shall transmit to the board of supervisors the consolidated budget estimates for all departments and offices of, and the proposed budget for, the city and county for the ensuing fiscal year, including a detailed estimate of all revenues of each department and an estimate of the amount required to meet bond interest, redemption and other fixed charges of the city and county, and the revenues applicable thereto. He shall, by message accompanying such proposed budget, comment upon the financial program incorporated therein, the important changes as compared with the previous budget, and bond issues, if any, as recommended by him.

The mayor shall submit to the board of supervisors, at the time that he submits said budget estimates and said proposed budget, a draft of the annual appropriation ordinance for the ensuing fiscal year, which shall be prepared by the controller. This shall be based on the proposed budget and shall be drafted to contain such provisions and detail as to furnish an adequate basis for fiscal and accounting control by the controller of each revenue and expenditure appropriation item for the ensuing fiscal year.

6.204 Publication

Upon submission, the proposed annual appropriation ordinance shall be deemed to have been regularly introduced.

The detail of the proposed budget shall be as follows:

(1) Total cost for conducting each department, bureau, office, board or commission for the ensuing fiscal year, segregated according to basic objects of expenditure for each.

(2) A detail schedule of positions and compensations, showing any increases or decreases in any department or office.

(3) A detail schedule of items for capital outlay.

(4) The aforementioned consolidated estimates and schedules shall also include by items contained therein the following information:

(a) Expenditures for the last complete fiscal year.

(b) Estimated expenditures for the current fiscal year.

(c) Proposed increases or decreases as compared with the budget allowances for the current fiscal year.

The board of supervisors shall cause copies of the mayor's budget message and proposed budget thus prepared, including comparative expenditures and revenues for the current and preceding fiscal years and other information transmitted therewith, to be made available for official use and to be placed and maintained for public inspection in the respective offices of the clerk of the board of supervisors and the controller, the main, branch and law libraries, and such other public locations as the board in its discretion may designate.

Within five days following receipt of the proposed budget by the board of supervisors, the controller shall submit to the board a brief and simple summary of its contents in a form prescribed by the controller and designed to aid the residents of the city and county in understanding and evaluating the need for, purposes, unit costs, intended results and supportive revenue sources of each departmental program. Upon submittal of the summary, the board shall cause it to be published and shall cause copies to be made available to the public.

6.205 Powers and Duties of the Board of Supervisors

The board of supervisors shall fix the date or dates, not less than ten days after receipt from the mayor, for consideration of and public hearings on the proposed budget and proposed appropriation ordinance.

The board of supervisors may decrease or reject any item contained in the proposed budget, but shall not increase any amount or add any new item for personal services or materials, supplies, or contractual services, for any department, unless requested in writing so to do by the mayor, on the recommendation of the chief administrative officer, board, commission or elective officer, in charge of such department.

The board of supervisors may increase or insert appropriations for capital expenditures and public improvements, but shall do so only after such items have first been referred to the department of city planning and a report has been rendered thereon regarding conformity with the master plan. It shall be the duty of the department of city planning to render its reports in writing within thirty days after said referral. Failure of the department of city planning to render any such report in such time shall be deemed equivalent to a report.

The budget estimates of expenditures for any utility, within the estimated revenues of such utility, shall not be increased by the board of supervisors.

In the event the public utilities commission and the mayor shall propose a budget for any utility which will exceed the estimated revenue of such utility, it shall require a vote of two-thirds of all members of the board of supervisors to approve such budget estimate and to appropriate the funds necessary to provide for the deficiency.

Such budget of expenditures in excess of estimated revenues may be approved to provide for and include proposed expenditures for additions, betterments, extensions or other capital costs, in amount not to exceed three-quarters of one cent ($.0075) on each one hundred dollars ($100) valuation of property assessed in and subject to taxation by the city and county, provided that whenever tax support is required for additions, betterments, extensions or other capital costs the total provision for such purposes shall not exceed an amount equivalent to three-quarters of one cent ($.0075) on each one hundred dollars ($100) valuation of property subject to taxation by the city and county and provided further that proposed expenditures for additions, betterments, extensions or other capital costs in excess thereof shall require financing by authorization and sale of bonds. This section shall have precedence over section 6.407 (a) of this charter and any other section deemed in conflict herewith.

After public hearing, and not earlier than the 15th of May, nor later than the 1st day of June, the board shall adopt the proposed budget as submitted or as amended and shall pass the necessary appropriation ordinance.

6.206 Veto

Any item in an appropriation ordinance passed pursuant to section 6.205 of this charter except for bond interest, redemption or other fixed charges, may be vetoed in whole or in part by the mayor within ten days of receipt by him from the clerk of the board of supervisors of the ordinance as passed by the board, and the board of supervisors shall act on such veto not later than the 20th day of June.

6.207 Annual Salary Ordinance

The number and rates of compensation for all positions continued or created by the supervisors in adopting each annual budget, and each annual or supplemental appropriation ordinance, shall be established and enumerated in an ordinance continuing and creating positions in city and county departments and offices, and providing the rates of compensation therefor, which ordinance shall be passed or amended at the same time as the annual or supplemental appropriation ordinance is passed. Such ordinance shall be subdivided for each department or office and each organization subdivision thereof. The number of positions enumerated therein shall be segregated by classes according to the civil service classification of employment and the positions in any department or office under any such class shall not be listed individually or subdivided, except where necessary to show varying rates of pay for employments included in any such class. Rates of compensation enumerated shall be those established by salary standardization schedules, and shall not be listed for individuals or individual positions, except where the compensation of incumbents is higher than the rate fixed by salary standardization, which compensation shall not be reduced so long as the incumbents legally hold such positions. Notwithstanding the provisions of section 2.300 of this charter with respect to amendment of sections of ordinances any change in the number of positions allowed for any department or office, and seniority or other compensation increases authorized as provided elsewhere in this charter for officers or employees, may be covered by amendment of the appropriate item or items of the ordinance herein referred to. The said ordinance shall constitute the legal basis for check by the civil service commission or the controller as to the legality of the creation of any position in the city and county service and the rate of compensation fixed therefor.

6.208 Tax Levy

On or before the 15th day of September of each year, the board of supervisors by ordinance shall levy a tax, the estimated proceeds of which, together with the total amount of receipts and revenues estimated to be received from all sources, will be sufficient to meet all appropriations made by the annual appropriation ordinance.

Chapter Three: Fiscal Administration

6.300 Effect of Appropriation Ordinance

Subject to the restrictions of section 6.301, the several amounts of estimated revenue and proposed expenditures contained in the annual appropriation ordinance as adopted by the board of supervisors shall be and become appropriated for the ensuing fiscal year to and for the several departments, bureaus, offices, utilities, boards or commissions, and for the purposes specified, and each department for which an expenditure appropriation has been made shall be authorized to use the money so appropriated for the purposes specified in the appropriation ordinance, and within the limits of the appropriation. The appropriation ordinance shall constitute the authority for the controller to set up the required revenue and expenditure accounts. Appropriation items for bond interest, bond redemption, fixed charges and other purposes not appropriated to a specific department shall be subject to the administration of and expenditure by the chief administrative officer for the respective purposes for which such appropriations are made.

6.301 Allotments

The several items of expenditure appropriated in each annual appropriation ordinance, being based on estimated receipts, income or revenues which may not be fully realized, it shall be incumbent upon the controller to establish a schedule of allotments, monthly or quarterly as he may determine, under which the sums appropriated to the several departments shall be expended. The controller shall revise such revenue estimates monthly. If such revised estimates indicate a shortage the controller shall hold in reserve an equivalent amount of the corresponding expenditure appropriations set forth in any said annual appropriation ordinance until the collection of the amount as originally estimated is assured, and in all cases where it is provided by this charter that a specified or minimum tax shall be levied for any department the amount of the appropriation in any annual appropriation ordinance derived from taxes shall not exceed the amount actually produced by the levy made for said department.

The controller in issuing warrants or in certifying contracts or purchase orders or other encumbrances, pursuant to section 6.302 of this charter, shall consider only the allotted portions of appropriation items to be available for encumbrance or expenditure and shall not approve the incurring of liability under any allotment in excess of the amount of such allotment. In case of emergency or unusual circumstance which could not be anticipated at the time of apportionment, an additional allotment for a period may be made on the recommendations of the department head and that of the chief administrative officer, board or commission and the approval of the controller. After the allotment schedule has been established or fixed, as heretofore provided, it shall be unlawful for any department or officer to expend or cause to be expended a sum greater than the amount set forth for the particular activity in the said allotment schedule so established unless an additional allotment is made, as herein provided.

6.302 Encumbrances

Accounts shall be kept by the controller showing the amount of each class or item or revenue as estimated and appropriated in the annual appropriation ordinance, and the amount collected. Accounts shall also be kept by the controller of each expense appropriation item authorized by the board of supervisors. Every warrant on the treasury shall state specifically by title and number the appropriation item against which such warrant is drawn.

Each such revenue and expense account shall show in detail the amount of the appropriation or appropriations made therefor by the supervisors, the amount drawn thereon, the amount of encumbrance for purchase orders, contracts or other obligations theretofore, certified by the controller as against it, and the unencumbered balance to the credit thereof. This balance shall be the "unencumbered balance" as this term is used in this charter.

No obligation involving the expendiutre of money shall be incurred or authorized by any officer, employee, board or commission of the city and county unless the controller first certify that there is a valid appropriation from which the expenditure may be made, and that sufficient unencumbered funds are available in the treasury to the credit of such appropriation to pay the amount of such expenditure when it becomes due and payable.

Each such certification shall be immediately recorded by the controller. Each sum so recorded shall be an encumbrance for the purpose certified until such obligation is fulfilled, cancelled or discharged, or until the ordinance or resolution is repealed by the board of supervisors.

6.303 Disbursements

No money shall be drawn from the treasury of the city and county, nor shall any obligation for the expenditure of any money be incurred except in pursuance of appropriations or transfers made as in this charter provided.

All warrants shall be drawn by the controller, in payment of claims, prepared and signed by the responsible official, for services, supplies and other obligations against the city and county, supported by proper invoices, bills and other necessary data.

The controller shall audit such claims. If he finds the same to be correct and proper in all particulars, and clearly within the purposes for which the appropriation item to which it is charged was made, and that there is an adequate balance in such appropriation item to meet the payment, he shall draw and approve the warrant therefor.

If all or any portion of the claim is not correct, or if all proceedings required incidental to such payment have not been followed, the controller may approve such part of such claim as he shall find correct and draw the warrant therefor, or he may return the claim to the department concerned with his disapproval.

Prior to his drawing any warrant therefor, the controller may, in addition to any other inspection required by any other official, make such investigation and inspection as he deems necessary as to the quality, quantity and condition of services, material, supplies or equipment received by any officer or department for which payment is to be made by such warrant. If, in his opinion, any claim is not legal, he shall withhold approval of the same and immediately return such claim, together with a statement of his action thereon and reason therefor, to the responsible official, or transmit the same to the mayor for instructions. No warrant shall be drawn in payment of a claim against a fund in which there is an insufficient unencumbered balance for the payment thereof. Such claims, if legal, shall be registered by the controller in the order of receipt by him, and shall be paid in such order as moneys to cover the same become available in the proper fund.

6.304 Disbursements in Advance of Revenues

The board of supervisors, by annual tax levy, may gradually build up the cash reserve fund authorized and created by the provisions of section 6.306 of this charter. Said fund shall be used exclusively (1) for the payment in any fiscal year of legally budgeted expenditures for such year in anticipation of the collection, after the close of such fiscal year, of legally collectible taxes and other revenues, as set forth in the budget and the appropriation ordinance for such fiscal year,

and (2) for paying that portion of the authorized expenses of the city and county for any fiscal year, which, as certified to said board by the controller, becomes due and payable and must be paid prior to the receipt of tax payments for such fiscal year; provided, that such cash reserve fund shall not at any time exceed the estimated expenditures for the first five months of the then current fiscal year, less the amount of estimated revenues and receipts from sources other than tax rate revenues.

In the event that funds are not available in such a cash reserve fund to meet authorized expenditures of any fiscal year, the board of supervisors, on the recommendation of the controller and the mayor, and the written approval of the officer, board or commission responsible for the management and control of the fund from which it is proposed that the temporarily idle balances be transferred or loaned may, by ordinance, authorize the treasurer to make temporary transfers or loans for specified periods of idle unencumbered balances in any fund in his custody, except a pension fund, at not less than the then current rate of interest paid by the banks to the city and county on city and county funds deposited with such banks. Such approval by the officer, board or commission concerned shall specify that the amount proposed to be transferred or loaned from such fund will not be needed for the purpose of such fund prior to the date specified for its return. The fund from which such transfer or loan is made shall be charged or encumbered with the amount of such transfer or loan and such amount shall not be considered as available in such fund for any other appropriation or encumbrance for which any expenditures or payments must be made prior to the date on which the transfer or loan is repaid. Any transfer or loan made as herein authorized during the first half of any fiscal year shall be repaid prior to the 1st day of January of said year, and any transfer or loan made during the remaining one-half of said fiscal year shall be repaid prior to the 15th day of May of said year. Such loans shall be secured by and made solely in anticipation of the collection of taxes levied or to be levied for the current fiscal year, and such loans shall constitute the first demand on and shall be repaid from the first tax collections for such current fiscal year; provided, however, that tax anticipation loans made as hereinafter in this section authorized, shall constitute a prior lien on said taxes levied or to be levied or collected.

When funds shall be needed for the immediate requirements of the city and county in any fiscal year in accordance with appropriations made as authorized by this charter for such fiscal year, which payments may be made in advance of the receipt of income from such fiscal year, and when funds therefor cannot be made available as

hereinbefore in this section authorized, the board of supervisors on the recommendation of the controller and the approval of such recommendation by the mayor, shall have power to borrow money on notes or other evidences of indebtedness on behalf of the city and county. Said power shall be exercised by ordinance or ordinances authorizing the borrowing of said money and the execution of said notes or other evidences of indebtedness. The aggregate amount of such notes or other evidences of indebtedness outstanding and unpaid at any one time during any part of the fiscal year in which said borrowing is made shall not be in excess of 25 per cent of the estimated aggregate amount of all taxes actually levied for such fiscal year. All such notes or other evidences of indebtedness shall be offered at public sale by the board of supervisors after not less than two days of advertising, not less than three days after the last day on which such advertising is published. Each such sale shall be made to the bidder offering the lowest rate of interest or whose bid represents the lowest net cost to the city and county; provided, however, that the rate of interest to be paid shall not exceed the sum of six (6) per centum per annum, and full authority is hereby given to said board of supervisors to fix, by resolution, the rate of interest on said notes or other evidences of indebtedness and the times and places where the principal sum of said notes or other evidences of indebtedness shall be paid. The principal amount of said notes or other evidences of indebtedness together with the interest thereon, issued and delivered under authority of this section shall be payable exclusively out of the taxes levied and collected by said city and county for the fiscal year during which the same are issued, and shall constitute a first lien and charge against the taxes collected during the half of the fiscal year in which said money shall be borrowed and shall be repaid from the first moneys received from said taxes; and the amount of taxes so levied and collected shall be applied to the payment of said notes or other evidences of indebtedness before any part thereof is used for any other purpose; provided, however, that taxes levied for the payment of principal of, or interest on, any bonded indebtedness of said city and county now outstanding or hereafter created shall be applied to the purpose for which such taxes were levied, unless the money borrowed by such notes or other evidences of indebtedness issued against such tax levies is in fact applied to the payment of the principal and interest of such bonded indebtedness. If at the time said notes or other evidences of indebtedness, or any of them, become due and payable the funds in the city treasury available for the payment thereof shall be insufficient for the payment in full of all of said notes or other evidences of indebtedness than outstanding such funds shall be applied pro rata to the payment of the principal

and interest of all of the notes or other evidences of indebtedness then issued and outstanding without preference or priority of any one note over any other by reason of prior issuance, or otherwise. Any of said notes or other evidences of indebtedness not paid prior to June 30 of the fiscal year during which the same are issued shall, nevertheless, be paid out of moneys received from the taxes of the said fiscal year, irrespective of the date of the receipt thereof, it being the intent and purpose of this section to provide for the payment of all notes or other evidences of indebtedness issued under authority of this section out of the taxes levied for the fiscal year during which said notes or other evidences of indebtedness are issued irrespective of the actual date of the collection of said taxes.

The board of supervisors shall have full power and authority to provide for the form of all notes or other evidences of indebtedness issued by authority of this section, as well as to fix the time and place for the payment of both the principal amount of said notes or other evidences of indebtedness and the interest to become due thereon; provided that all notes or other evidences of indebtedness issued for money borrowed during the first half of any fiscal year shall be payable not later than December 31 of said year; and all notes or other evidences of indebtedness issued for money borrowed during the second half of any fiscal year shall be payable not later than May 15 of such year, it being the intent and purpose of this section that the borrowing of money under authority hereof shall be solely for the purpose of anticipating receipt of income. The mayor, in preparing the consolidated budget estimate as provided by this charter, shall include therein a separate amount sufficient to meet the interest to be paid on any moneys borrowed under authority of this section.

6.305 Transfers

Upon written recommendation of the chief administrative officer, or board or commission for the use of which funds have been appropriated, and the approval of the mayor, the board of supervisors may transfer an unencumbered balance, or part thereof, of an appropriation made for the use of one department, to another. No such transfer shall be made of utility, bond, school, pension or trust funds, except by way of loans as in this charter provided. On request of a department head and approval by the chief administrative officer, board or commission, respectively, and on the authorization of the controller, funds appropriated for a specific purpose of such department which become surplus may be transferred and used for another specific purpose within the department; provided, however, that such surplus shall not be transferred to a capital improvement

project unless such project shall have been previously approved in accordance with the provisions of sections 3.527, 6.202, 6.203, or 6.205 of this charter. The controller shall prescribe the method to be used in making payments for interdepartmental services.

6.306 Cash Reserve Fund and Supplemental Appropriations

Unused and unencumbered appropriations or unencumbered balances existing at the close of any fiscal year in revenue or expense appropriations of the city and county for any such fiscal year, including such balances in revenue and expense appropriations provided under the provisions of section 6.400 (a) of this charter for libraries, parks and squares, playgrounds and civil service in any such fiscal year, but exclusive of revenue or money required by law to be held in school, bond, bond interest, bond redemption, pension, trust, utility or other specific funds, or to be devoted exclusively to specified purposes other than annual appropriations, and together with revenues collected or accruing from any source during any such fiscal year, in excess of the estimated revenue from such source as shown by the annual budget and the appropriation ordinance for such fiscal year, shall be transferred by the controller, at the closing of such fiscal year, to a "cash reserve fund" which is hereby created and which may be used only in the manner authorized by section 6.304 of this charter; provided, however, that when the balance in said cash reserve fund shall equal ten (10) per centum of the current or the last preceding tax levy no such transfer shall be made by the controller except on the recommendation of said controller, the approval of the mayor and the authorization of the board of supervisors, by majority vote.

Such unused and unencumbered appropriations, balance and revenue collections in excess of revenue estimates, as hereinbefore in this section defined, when not transferred to the cash reserve fund as hereinbefore in this section required or authorized, shall be held as surplus.

Such surplus shall be taken into account as revenue of the ensuing fiscal year; provided, however, that any such surplus created or existing in any fiscal year may be appropriated by the board of supervisors at the last meeting of such board in any month, by means of an ordinance designated as a supplemental appropriation ordinance, on the recommendation of the chief administrative officer, or any board, commission or elective officer, respectively, and the approval and submission by the mayor of a supplemental budget estimate or request, in the same manner and subject to the same conditions, except time, as provided in this charter for the submis-

sion and approval of the annual budget and the appropriation ordinance.

No ordinance or resolution for the expenditure of money, except the annual appropriation ordinance, shall be passed by the board of supervisors unless the controller first certify to such board that there is a sufficient unencumbered balance in a fund that may legally be used for such proposed expenditure, and that, in the judgment of the controller, revenues as anticipated in the appropriation ordinance for such fiscal year and properly applicable to meet such proposed expenditure will be available in the treasury in sufficient amount to meet the same as it becomes due.

6.307 Emergency Reserve Fund

The tax rate may be fixed by the board of supervisors so as to produce, by a specifically designated rate, as recommended by the mayor in any proposed annual budget and the appropriation ordinance therefor, an amount necessary for an emergency reserve fund, which fund is hereby created, for the purposes of meeting any emergency as defined in sections 2.301 or 3.100 of this charter. Appropriations from such emergency reserve fund shall be made only on the recommendation of the department head concerned, the approval of the chief administrative officer or the board or commission in charge of such department, the recommendation of the mayor to the board of supervisors that such appropriation be made, and the vote of three-fourths of the board of supervisors.

The balance in said emergency reserve fund at the end of any fiscal year shall be maintained and carried forward in said fund. The annual appropriation for said fund and the annual tax rate therefor shall not exceed one per centum of the amount of the levy required to meet all other expense appropriations unless and until the accumulated and unencumbered balance in said fund shall amount to a sum not to exceed three per centum of the tax levy required to meet all other expense appropriations in the then current fiscal year. The board of supervisors, on the recommendation of the mayor, may make appropriations to and may levy taxes for said emergency reserve fund in excess of said three per centum of the tax levy for all other purposes.

6.308 Revolving Funds

The board of supervisors, on the recommendation of the mayor, in any proposed annual budget, may, in the approval of such budget and the annual appropration ordinance therefor, establish departmental revolving funds to be used as petty cash funds for specific purposes and to be subject to settlement with, and audit by, the

controller at least monthly, as provided in section 3.303. The mayor shall recommend and the supervisors shall establish revolving funds designated in this charter as the special election fund and the purchaser's revolving fund, and they shall respectively recommend and establish such revolving funds as may be necessary to facilitate the operation of each utility and institution of the city and county.

6.309 Clearing House Representative

The board of supervisors, by ordinance, upon the recommendation of the mayor, the treasurer and the controller, may designate any bank qualified to be a depositary under this charter to be the clearing house representative of the city and county, and the city and county may pay a reasonable fee for the service thereof. The necessary procedure shall be provided by ordinance.

6.310 Custody of Moneys and Securities

The board of supervisors shall by ordinance provide for the safe custody of all money and property in the possession or under the control of the treasurer. Pending the adoption of such ordinance, moneys and securities in possession of the treasurer shall be deposited in a joint custody safe with two combination locks, both of which must be unlocked to open the safe. The combination of one lock shall be known only to the treasurer and one deputy in his office selected by him, and the combination of the other shall be known only to the controller and such assistant in his office as shall be selected by him. The joint custody safe shall be opened only in the presence of the treasurer and either the controller or the assistant in his office having knowledge of the combination, or in the presence of the controller and either the treasurer or the assistant in his office having knowledge of the combination, and either the controller or the said assistant shall attend, at the request of the treasurer, to open the joint custody safe.

A complete record of moneys and securities on deposit in the joint custody safe shall be kept in a joint custody account and the record of any withdrawals shall be verified by the initials of the controller or his said assistant and the treasurer or his said assistant. Money required for current daily payments to be made from the treasury may be withdrawn from the joint custody safe and deposited in another safe, and the balance thereof shall be verified daily at the close of business hours by the treasurer and the controller.

6.311 Receipt, Deposit and Investment of Funds

Disbursement of all public or other funds in the custody of the treasurer, except reimbursement transfers between departments as provided in section 6.305, shall be made only on warrants drawn by the controller. All moneys and checks received by any officer or employee of the city and county for, or in connection with the business of, the city and county, shall be paid or delivered into the treasury not later than the next business day after its receipt, and shall be receipted for by the treasurer. Daily statements of such receipts and deposits shall be prepared and transmitted to the controller and the treasurer. All pension funds and securities shall be deposited with the treasurer.

The deposit of public funds shall be governed by state law enacted under authority of Article XIII, Section 38 and 39 of the Constitution.

The treasurer shall not be responsible for any loss of public moneys resulting from a deposit thereof made in accordance with the provisions of this section. The treasurer shall be responsible for the safekeeping of all securities deposited by banks. The transfer of money for deposits shall be at the expense of the depositary.

Funds received as gifts for a specific purpose, by donation, bequest, legacy or otherwise, and held in trust for the benefit of the city and county may, with the approval of the controller, be invested by the officer, board or commission charged with control and administration of such trust or funds in securities legal for savings banks.

All interest on moneys deposited shall accrue to the benefit of the city and county, except that interest derived from the deposit of any bond, utility, pension, trust or other fund created for a specific purpose shall accrue to such fund. Public money, other than that of the city and county, coming into the hands of the treasurer shall be kept as provided by law.

6.312 Invalidity of Improper Acts

All obligations incurred, all ordinances passed, and resolutions and orders adopted, contrary to the provisions of sections 6,302, 6,306, and 6.313 shall be void and any claim or demand against the city and county based thereon shall be invalid.

6.313 Penalties

Every officer who shall approve, allow or pay any demand on the treasury not authorized by law, ordinance or this charter, shall be liable to the city and county individually and on his official bond for the amount of the demand so illegally approved, allowed or paid.

Chapter Four: Requirements for and Limitations on Revenues and Expenditures

6.400 Property Tax Limitations and Requirements

(a) The tax levy shall not exceed the rate of one dollar and sixty-five cents ($1.65) on each one hundred dollars ($100) valuation of the property assessed in and subject to taxation by the city and county, exclusive of the following items: (1) State taxes, and taxes for the interest and sinking fund on bonded indebtedness of the city and county; (2) the cost of constructing, maintaining and improving (a) schools, (b) libraries, which tax shall not be less than four cents on each one hundred dollars, (c) parks and squares, which tax shall be not less than ten cents on each one hundred dollars, (d) playgrounds, which tax shall be not less than seven cents on each one hundred dollars, (e) for the art commission for the purpose of maintaining a symphony orchestra one-half cent on each one hundred dollars of said assessed valuation, (f) streets, sewers and buildings; (3) the cost of (a) elections, (b) civil service, which tax shall not be less than one-half cent on each one hundred dollars, (c) obligations imposed by state legislative or constitutional enactment and (d) obligations imposed by vote of the people of the city and county.

(b) The amount of money to be provided by tax levy for recreation and park purposes shall not be less than the total of the amounts now or hereafter provided for parks and squares and for playgrounds under the provisions of subsection (a).

(c) Revenue to meet current annual interest and redemption or sinking fund for outstanding bonds shall always be provided out of the tax levy; provided, however, that to the extent to which funds are appropriated by the public utilities commission, and available for annual interest and redemption or sinking fund on bond issued for acquisition, construction or extension of any utility, no tax shall be levied therefor.

6.401 Limitations on Bonded Indebtedness

(a) No bonded indebtedness shall be incurred by the city and county which together with the amount of bonded indebtedness outstanding shall exceed twelve percent of the assessed value of all real and personal property in the city and county subject to taxation for city and county purposes. Bonded indebtedness heretofore or hereafter created for water supply, storage or distribution purposes, sewers and sewerage collection, disposal and treatment, water pollution control, and the acquisition, construction or completion of air

transportation facilities and bonded indebtedness created pursuant to section 7.302 hereof shall be exclusive of the limitation on the amount of bonded indebtedness of the city and county contained in this section; provided, however, that any bonded indebtedness for sewers and sewerage collection, disposal and treatment, and for water pollution control, must be financed by sewerage service charges for the foregoing exclusion to be applicable.

(b) Any and all indebtedness assumed for the purpose of accepting the transfer and assuming jurisdiction and control of the harbor of San Francisco and the facilities thereof in accordance with the terms and conditions of Statutes 1968, ch. 1333 shall not be included in the bond debt limit provided for in subsection (a), and if thereafter any additional bonded indebtedness is incurred to improve said harbor in connection with the operation thereof, said bonded indebtedness so incurred shall also be exempt from the limitations contained in subsection (a).

(c) A bonded indebtedness for the construction, completion or acquisition of foreign trade zones and the acquisition of necessary lands, buildings and equipment authorized by the electors in accordance with the provisions of this charter shall be exclusive of the bonded indebtedness of the city and county limited by this charter.

6.402 Fees for Licenses and Permits

The fees or licenses to be charged under ordinances referred to in section 7.704 shall not be less than the cost to the city and county of regulation and inspection; provided, that in so far as the regulation and inspection of foodstuffs or articles of food for human consumption are concerned, the fees or licenses to be charged for such regulation and inspection shall be as determined by the board of supervisors, but the same shall not exceed the cost of said regulation and inspection.

6.403 Business License Taxes

No license tax shall be imposed after June 30, 1973, on any seller or manufacturer of goods, wares or merchandise operating at a fixed place of business in the city and county, except such as require permits or licenses in accordance with or under authority of any local health, sanitary or other ordinance under the police power.

6.404 Appropriations for Maintenance of Certain Cultural Facilities

(a) The board of supervisors shall annually appropriate to the war memorial board an amount sufficient to defray the cost of maintaining, operating and caring for the war memorial.

(b) The supervisors, for the purpose of maintaining, operating and superintending the California Palace of the Legion of Honor, and the purchase of objects of art, literary productions and other personal property, shall provide an amount sufficient for the maintenance, operation, and superintendence thereof, subject to the budget and fiscal provisions of this charter, and to that end shall levy a tax annually, the proceeds of which shall be credited to and deposited in a fund in the treasury of the city and county to be known as the "California Palace of the Legion of Honor Fund," and shall be used exclusively for the purposes thereof.

(c) The supervisors, subject to the budget provisions of this charter, shall, for the purpose of maintaining the M. H. de Young Memorial Museum, include in each annual budget of city and county expenditures an amount sufficient for the maintenance, operation and superintendence thereof, not less than forty thousand dollars ($40,000) in each annual budget, and such additional amount as is necessary to take care of the increased demand for help, buildings, repairs, and care of said memorial museum. Such amounts shall be credited to and deposited in the fund in the treasury of the city and county to be known as the "M. H. de Young Memorial Museum Fund."

(d) Funds necessary for the maintenance, operation, and continuance of the Steinhart Aquarium shall be furnished by the city and county to the California Academy of Sciences. The board of supervisors is empowered to furnish to said California Academy of Sciences such funds as the board shall deem proper for the maintenance, operation, and continuance of any or all other of said buildings and improvements heretofore or hereafter erected.

6.405 Appropriations for Civil Service Commission

If the annual appropriation of the civil service commission is insufficient to meet the cost of the examinations required to establish registers of eligibles through the examination procedures set forth in section 8.321 hereof, or to qualify applicants for limited tenure appointments as provided in section 8.331, the commission shall report to the mayor the estimated cost thereof and the mayor shall request and the supervisors shall make supplemental appropriations therefor in the manner provided herein for supplemental appropriations.

If its annual appropriation is insufficient to meet the cost of the examination required in section 8.332, it shall report to the mayor the estimated cost thereof, and the mayor shall request and the supervisors shall make supplemental appropriation therefor in the manner provided herein for supplemental appropriations.

6.406 Harbor Revenues and Expenditures

The revenues of the harbor and of all properties and facilities incident thereto, or used in connection therewith, shall be deposited in a separate fund in the treasury of the city and county and a harbor trust fund or trust funds shall be established by the city and county and the city and county shall deposit in the fund or funds all monies received attributable to facilities on the transferred lands in the harbor.

Subject to the terms and conditions of Statute 1968. ch. 1333, appropriations from such funds shall be made for the following purposes and in the order named, viz:

(a) For the payment of maintenance and operating expenses, pension charges and proportionate payments to such compensation and other insurance and accident reserve funds as the commission may establish or the board of supervisors may require;

(b) For payment of the principal and interest of any obligations of the State of California and assumed or agreed to be paid by the City and County of San Francisco;

(c) For the payment of principal, interest, reserve funds, sinking funds, and other funds established for the benefit of revenue bonds issued pursuant to the authority contained in section 7.305 of this charter;

(d) For capital improvements to the properties of said harbor or used in connection with the operation thereof;

(e) For the payment of the principal and interest on any general obligation bonds issued by the City and County of San Francisco for the acquisition, construction, repair or extension of said harbor or of any of the facilities used in connection therewith;

(f) An amount which shall be sufficient to meet the cost of reconstruction and replacement made necessary by the physical and functional depreciation of any of the properties or equipment of said harbor as the same shall occur;

(g) To pay for extension and betterments to said harbor or to the equipment and facilities thereof;

(h) To establish a surplus or sinking fund for the improvement or extension of the harbor or any facility used in connection therewith.

6.407 Utility Revenues and Expenditures

(a) Receipts from each utility operated by the public utilities commission shall be paid into the city and county treasury and maintained in a separate fund for each such utility. Appropriations from such funds shall be made for the following purposes for each such utility in the order named, viz: (1) for the payment of operating

expenses, pension charges, and proportionate payments to such compensation and other insurance and accident reserve funds as the commission may establish or the board of supervisors may require; (2) for repairs and maintenanance; (3) for reconstruction and replacements as hereinafter described; (4) for the payment of interest and sinking funds on the bonds issued for acquisition, construction or extensions; (5) for extensions and improvements, and (6) for a surplus fund.

(b) The salaries and general expenses of the commission or bureaus thereof not chargeable to a specific department shall be apportioned fairly among the departments under the control of the public utilities commission in such manner as the commission may deem appropriate, and such apportionment shall be shown as expenses of such department.

(c) For the purpose of computing net income, the public utilities commission, on the basis of an appraisal of the estimated life and the then current depreciated value of the several classes of property in each utility, shall determine the amount of reasonable annual depreciation for each utility. During the fiscal year 1937-1938 and at least every five years thereafter, the commission shall make an appraisal or may revise the last preceding appraisal of the value and probable useful life of each of the several classes of property of each utility, and shall, on the basis of said appraisal, redetermine the amount of the reasonable annual depreciation for each utility.

(d) For the purpose of providing funds for reconstruction and replacements due to physical and functional depreciation of each of the utilities under the jurisdiction of the commission, the commission must create and maintain a reconstruction and replacement fund for each such utility, sufficient for the purposes mentioned in this section, and in accordance with an established practice for utilities of similar character, which shall be the basis for the amount necessary to be appropriated annually to provide for said reconstruction and replacements.

(e) If any accumulation in the surplus fund of any utility shall, in any fiscal year, exceed twenty-five percent of the total expenditures of such utility for operation, repairs and maintenance for the preceding fiscal year, such excess may be transferred by the board of supervisors to the general fund of the city and county, and shall be deposited by the commission with the treasurer to the credit of such general fund.

(f) Any budget of expenditures for any public utility in excess of estimated revenues may be approved to provide for and include proposed expenditures for additions, betterments, extensions or other capital costs, in amount not to exceed three-quarters of one

cent ($.0075) on each one hundred dollars ($100) valuation of property assessed in and subject to taxation by the city and county, provided that whenever tax support is required for additions, betterments, extensions or other capital costs the total provision for such purposes shall not exceed an amount equivalent to three-quarters of one cent ($.0075) on each one hundred dollars ($100) valuation of property subject to taxation by the city and county and provided further that proposed expenditures for additions, betterments, extensions or other capital costs in excess thereof shall require financing by authorization and sale of bonds. This section shall have precedence over section 6.205 of this charter and any other section deemed in conflict herewith.

6.408 Airports Revenue Fund

(a) Subject to the budget and fiscal provisions of this charter: (1) The entire gross revenue of the airports commission shall be set aside and deposited into a fund in the city and county treasury to be known as the "Airports Revenue Fund." All amounts paid into said fund shall be maintained by the treasurer separate and apart from all other city and county funds and shall be secured by his official bond or bonds. Said fund shall be exempt from section 6.407 of this charter. (2) Separate accounts shall be kept with respect to receipts and disbursements of each airport under the jurisdiction of the commission.

(b) Moneys in the Airports Revenue Fund including earnings thereon shall be appropriated, transferred, expended or used for the following purposes pertaining to the financing, maintenance and operation of airports and related facilities owned, operated or controlled by the commission and only in accordance with the following priority: (1) the payment of operation and maintenance expenses for such airports or related facilities; (2) the payment of pension charges and proportionate payments to such compensation and other insurance or outside reserve funds as the commission may establish or the board of supervisors may require with respect to employees of the commission; (3) the payment of principal, interest, reserve, sinking fund, and other mandatory funds created to secure revenue bonds hereafter issued by the commission for the acquisition, construction or extension of airports or related facilities owned, operated or controlled by the commission; (4) the payment of principal and interest on general obligation bonds heretofore or hereafter issued by the city and county for airport purposes; (5) reconstruction and replacement as determined by the commission or as required by any airport revenue bond ordinance duly adopted and approved; (6) the acquisition of land, real property or interest in real

property for, and the acquisition, construction, enlargement and improvement of new and existing buildings, structures, facilities, utilities, equipment, appliances and other property necessary or convenient for the development or improvement of any airports and heliports owned, controlled or operated by the commission in the promotion and accommodation of air commerce or navigation and matters incidental thereto; (7) the return and repayment into the general fund of the city and county of any sums paid by the city and county from funds raised by taxation for the payment of interest on and principal of any general obligation bonds heretofore issued by the city and county for the acquisition, construction and improvement of the San Francisco International Airport; (8) for any other lawful purpose of the commission.

6.409 Expenditures of the Proceeds from the Sale of Property

The proceeds of the sale of any property under the control of a department shall be applied by the supervisors to the purchase of additional land for the use of such department if required thereby. Otherwise such proceeds shall be applied to the purchase of additional real property for any city and county purpose, or, if not required therefor, may be appropriated by the board of supervisors for capital improvements; provided, however, that the proceeds of the sale of any property acquired for the use of any utility, bond, special or trust fund shall revert to the related utility, bond, special or trust fund.

6.410 Limitation on Special Assessments

Special assessments shall not exceed fifty percent of the assessed value of the land on which the special assessment is levied, except that when such assessments are authorized to be paid in installments over a period not to exceed ten years, no annual installment payment shall exceed twenty-five percent of the assessed value of the land on which the special assessment is levied.

6.411 Admission Fees to California Academy of Sciences Building

Subject to the approval of the board of supervisors, reasonable and appropriate charges may be made by the California Academy of Sciences for admission to or use of the buildings or improvements erected by or under the authority of the California Academy of Sciences in or on property owned or controlled by the city and county.

6.412 Sales and Use Taxes

Notwithstanding any of the provisions of this charter, the board of

supervisors shall have the power to enact an ordinance that will be in accordance with the provisions of Part 1.5 of Division 2 of the Revenue and Taxation Code of the State of California and any amendments thereto, insofar as said Part 1.5 of Division 2, as amended, provides for uniform local sales and use taxes, and it may enact such other ordinances and authorize the execution of such agreements as may be necessary or convenient to insure the imposition and collection of such taxes.

ARTICLE VII.

SPECIAL PROCEDURES

Chapter One: Purchase of Material, Supplies and Equipment

7.100 Material, Supplies and Equipment

The purchaser of supplies shall purchase all materials, supplies and equipment of every kind and nature, and enter into agreements for all contractual services required by the several departments and offices of the city and county, except as in this section otherwise provided. Purchases of books, magazines and periodicals for the library departments, works of art for museums and other articles or things of unusual character as to the purchasing thereof, may, on the recommendation of a department head and the approval of the purchaser, be purchased directly by said department head.

Purchases for construction operations, or for any operations conducted outside the boundaries of the city and county may, on the recommendation of the department head in charge thereof and the approval of the purchaser of supplies, be made by the department head. All such purchases made by officials of departments other than the purchasing department shall be made in accordance with regulations established by the purchaser of supplies. The purchaser of supplies shall have authority to exchange used materials, supplies, and equipment to the advantage of the city and county, advertise for bids, and to sell personal property belonging to the city and county on the recommendation of a department head that such articles are unfit for use.

All purchases shall be by written purchase order or written contract. All purchases in excess of one thousand dollars ($1,000) shall be by written contract; provided, however, that on the recommendation of the department head, in case of an emergency actually existing, the purchaser of supplies, with the approval of the chief administrative officer, may make such purchases in the open market

on the basis of informal bids. At least three bids or quotations shall be secured on open market purchases and a permanent record of all such quotations shall be kept. All contracts and purchase orders in excess of two thousand dollars ($2,000) for material, supplies or equipment shall require the signature of the chief administrative officer in addition to the signature of the purchaser of supplies. The purchaser of supplies shall not enter into any contract or issue any purchase order unless the controller shall certify thereon that sufficient unencumbered balances are available in the proper fund to meet the payments under such purchase order or contract as these become due.

The purchaser of supplies shall establish specifications and tests to cover all recurring purchases of material, supplies and equipment. He shall, as far as is practicable, standardize material, supplies and equipment according to the use to which they are to be put, when two or more types, brands or kinds are specified or requested by individual departments.

Purchases of equipment shall be made in accordance with specifications furnished by the department requiring such equipment in case the use of such equipment is peculiar to such department. For patented or proprietary articles sold by brand name, the purchaser may require each department requisitioning same by such brand name, to furnish specifications of the article requisitioned and may advertise for bids on the basis of such specifications, under conditions permitting manufacturers of or dealers in other articles made and sold for the same purpose to bid on such specifications or on the specifications of their own product. If the purchaser of supplies recommends the acceptance of the lowest or best bid, stating his reasons in writing therefor, and if the department head concerned recommends the acceptance of any other bid on such proprietary articles, stating his reasons in writing therefor, the award shall be determined by the controller.

The purchaser of supplies shall require departments to make adequate inspection of all purchases, and shall make such other inspection as he deems necessary. He shall direct the rejection of all articles which may be below standards, specifications or samples furnished. He shall not approve any bill or voucher for articles not in conformity with specifications, or which are at variance with any contract.

He shall have charge of central storerooms and warehouses of the city and county. He shall also have charge of a central garage and shop for the repair of city and county equipment. All garages and shops heretofore maintained by departments for the construction, maintenance, and repair of departmental supplies and equipment,

and the personnel assigned thereto, excepting the shop and personnel for fire alarm, police telegraph and traffic signal manufacture and repair operated by the department of electricity, are hereby transferred to said central garage and shop.

He shall, under the supervision of the controller, maintain an inventory of all material, supplies and equipment purchased for and in use in all departments and offices of the city and county. He shall be responsible for the periodic check of such property, and in case of loss or damage deemed by him to be due to negligence, he shall report thereon to the mayor, the chief administrative officer and the controller. He shall have authority to require the transfer of surplus property in any department to stores or to other departments.

7.101 Surplus Commodities

Notwithstanding any other provision of the charter, the purchaser of supplies, with the approval of the chief administrative officer, may purchase any commodity either from the government of the United States or from the State of California without advertising for bids for said commodity, irrespective as to the cost thereof, and no written contract need be entered into with the government of the United States or with the State of California for the purchase of said commodity. Before any such purchase is made the controller shall certify as to the availability of funds to pay the purchase price of said commodity.

7.102 Monetary Functions

The board of supervisors shall by ordinance determine the monetary limits of purchases of material, supplies and equipment to be made (a) by the taking of informal bids consistent with the manner provided in section 7.100; and (b) by advertising for bids consistent with the manner provided for in section 7.200.

They shall also provide by ordinance for the monetary limits within which procurements of material, supplies and equipment may be made from departmental revolving funds. The purchaser of supplies shall by rules and regulations, approved by the chief administrative officer and the controller, establish the methods whereby procurements may be made from departmental revolving funds.

7.103 Requisition, Contract and Payment

All purchase orders and contracts shall be based on written requisitions, or, for material or supplies in common use in the various departments, on the purchaser's records of average use by all departments, when approved by the chief administrative officer. The pur-

chaser of supplies shall approve all bills or vouchers for materials supplies, equipment, and contractual services before the controller shall draw and approve warrants therefor. All contracts for the purchase of material, supplies and equipment shall be made after inviting sealed bids by publication. All sealed bids received shall be kept on file. When an award of contract is made, notice that the same has been made shall be given by one publication, and any interested person may examine the bids and records at the purchaser's office.

7.104 Purchaser's Revolving Fund

Appropriations for material, supplies, and equipment shall be segregated in each annual appropriation ordinance for each department or office. Any part of each such fund or appropriation may, on the recommendation of the purchaser of supplies and the approval of the controller, be transferred to or made available in the purchaser's revolving fund. Warrants shall be drawn against such fund by the controller on demand of the purchaser for the payment of bills on which discount for prompt payment may be secured, or for advantageous cash purchasing, under favorable or emergency market conditions, of material or supplies for future departmental requisition and use. Discounts obtained by the use of the purchaser's revolving fund may be accumulated therein and the supervisors may make annual appropriations to such fund until a sufficient sum, as determined by the controller, is accumulated to meet the average purchasing and discount payment requirements of the city and county.

Chapter Two: Construction or Repair of Public Works or Improvements

7.200 Public Works and Purchasing Contracts

The construction, reconstruction or repair of public buildings, streets, utilities or other public works or improvements, and the purchasing of supplies, material and equipment, when the expenditure involved in each case shall exceed the sum of two thousand dollars ($2,000) shall be done by contract, except as otherwise provided by this charter. It shall constitute official misconduct to split or divide any public work or improvement or purchase into two or more units for the purpose of evading the contract provisions of this section. In an emergency, provided an actual emergency be declared by the board of supervisors to exist, and when authorized by resolution of said board, any public work or improvement may be executed in the most expeditious manner. Notwithstanding any

other provision in this section or this charter contained, upon the approval of the chief administrative officer declaring the work to be emergency in character, there may be expended by the department of public works the sum not to exceed five hundred dollars ($500) for new construction of any type in or upon unimproved or unaccepted streets.

Any public work or improvement estimated to cost less than two thousand dollars ($2,000) may be performed under contract or written order or by the employment of the necessary labor and purchase of the necessary materials and supplies directly by the city and county. Any public work or improvement executed by the city, other than routine repair work, shall be authorized by the chief administrative officer or by the heads of departments not under the chief administrative officer, only after detailed estimates have been prepared and submitted by the head of the department concerned. There shall be separate accounting for each work or improvement so executed, which accounting shall include all direct, indirect and supervisory elements of cost chargeable to such work or improvement, and each cost accounting shall be reported to the chief administrative officer, or to the mayor when such work shall have been performed by departments not under the chief administrative officer. All such accounts shall be reported to the controller. Any public work or improvement costing less than two thousand dollars ($2,000) and not performed by the use of city and county labor, materials, and supplies shall, if not performed under contract, be covered by written order or agreement which shall be based on not less than three bids, notice of which shall be given by three days' posting. Records of such bids shall be kept by the department.

When the expenditure for any public work or improvement shall exceed the sum of two thousand dollars ($2,000), the same shall be done by contract, except as otherwise provided in this charter. The head of the department in charge of or responsible for the work for which a contract is to be let, or the purchaser of supplies in the case of purchases of materials, supplies and equipment, shall let such contract to the lowest reliable and responsible bidder not less than ten days after advertising by publication for two consecutive days for sealed proposals for the work, improvement or purchase contemplated. Each such advertisement shall contain the reservation of the right to reject any and all bids. The officer responsible for the awarding of any such contract shall require from all bidders information concerning their experience and financial qualifications, as provided by general law relative to such investigations authorized by department of public works.

The purchaser of supplies with the approval of the chief adminis-

trative officer, or the department head concerned, with the approval of the board or commission to which he is responsible, may reject any and all bids and readvertise for bids.

The department head or the purchaser of supplies, as the case may be, shall have power to sign such contract for the estimated expenditures thereunder not in excess of two thousand dollars ($2,000). Any contract involving the expenditure of over two thousand dollars ($2,000), if for the purchase of materials, supplies or equipment, shall require the joint approval of the purchaser of supplies and the chief administrative officer. If such contract is for any public work or improvement, it shall require the joint approval of the department head and the chief administrative officer relative to departments under his jurisdiction, or the signature of the department head and the approval by resolution of the board or commission concerned for departments not under the chief administrative officer.

The board of supervisors, by ordinance, shall establish procedure whereby appropriate city and county departments may file sealed bids for the execution of any work to be performed under contract. If such bid is the lowest, the contract shall be awarded to the department. Accurate unit costs shall be kept of all direct and indirect charges incurred by the department under any such contract, which unit costs shall be reported to and audited by the controller monthly and on the completion of the work.

In any case where the lowest gross price or unit cost bid is not accepted, and a contract is entered into with another bidder, written report shall be made to the chief administrative officer, the mayor and the controller by the officer authorized to execute the contract, with the reasons for failure to accept such lowest bid.

If any provision of this section is in conflict with any provision of section 7.100 of the charter, the provision contained in section 7.100 shall govern and control.

7.201 Public Works Contract Procedure by Ordinance

Notwithstanding any other provision of this charter and in particular the provisions of section 7.200, the board of supervisors shall by ordinance determine the monetary limits not to exceed five thousand dollars ($5,000), within which the construction, reconstruction or repair of public buildings, streets, utilities or other public works or improvements may be done by contract or by written order or by the employment of the necessary labor and purchase of the necessary materials and supplies directly by the city and county, consistent, save as to monetary limits, with the manner provided for in section 7.200 and section 7.100.

7.202 Progressive Payments

Any contract may provide for progressive payments, if the advertisement for sealed proposals shall so specify. No progressive payments under any contract shall be made which, with prior payments, shall at any time exceed in amount ninety per cent of the value of the work and labor and materials furnished, and no contract shall authorize or permit the payment of more than ninety per cent of the total contract price before the completion of the work required by such contract and the acceptance thereof by the head of the department concerned.

7.203 Penalties and Extras

If so specified in the published notice soliciting sealed bids for any public work or improvement, any contract therefor may be let for a gross price or on a basis of cost per unit of work to be performed, and may also provide for liquidated damages to the city and county for every day during which the contract is uncompleted beyond such specified date. In awarding any contract, the department head concerned is authorized to compare bids on the basis of time of completion. When any award of contract has been made in consideration, in whole or in part, of the relative time estimates of bidders for the completion of the work, the time within which the contractor shall start work shall be fixed and the performance within such time limits shall be covered by the bond required of the contractor, and no extension may be granted on such contract beyond the date specified for completion, unless the liquidated damages for each day the work is uncompleted beyond the specified date shall be collected; provided, however, that this shall not apply to unavoidable delays due to act of God.

If it becomes necessary, in the prosecution of any work or improvement under contract, to make alterations or modifications, or provide for extras in such contract which shall increase the contract cost, such alterations, modifications or extras shall be made only on the written recommendation of the department head responsible for the supervision of the contract, together with the approval of the chief administrative officer or the board or commission, as the case may be, and also the approval of the controller. No such alteration, modification or extra shall be valid, unless the increased price to be paid under the altered or modified contract shall have been agreed upon in writing and signed by the contractor and the department head concerned, and approved as hereinbefore provided. In the performance of any contract awarded on the unit and the unit-cost basis, if the department head concerned ascertains

that the amount of work done or to be done shall exceed the estimated amount of the contract by ten per cent, or more, the excess shall be provided for as prescribed by section 6.306 relative to supplemental appropriations.

7.204 Contractors' Working Conditions

Every contract for any public work or improvement to be performed at the expense of the city and county, or paid out of moneys deposited in the treasury, whether such work is to be done directly under contract awarded, or indirectly by or under sub-contract, sub-partnership, day labor, station work, piece work, or any other arrangement whatsoever, must provide: (1) That in the performance of the contract and all work thereunder, eight hours shall be the maximum hours of labor on any calendar day; (2) that any person performing labor thereunder shall be paid not less than the highest general prevailing rate of wages in private employment for similar work; (3) that any person performing labor in the execution of the contract shall be a citizen of the United States; (4) that all laborers employed in the execution of any contract within the limits of the city and county shall have been residents of the city and county for a period of one year immediately preceding the date of their engagements to perform labor thereunder; provided, however, that the officer empowered to award any such contract may, upon application of the contractor, waive such residence qualifications and issue a permit specifying the extent and terms of such waiver whenever the fact be established that the required number of laborers and mechanics possessing qualifications required by the work to be done cannot be engaged to perform labor thereunder.

The term "public work" or "improvement," as used in this section shall, include the fabrication, manufacturing or assembling of materials in any shop, plant, manufacturing establishment or other place of employment, when the said materials are of unique or special design, or are made according to plans and specifications for the particular work or improvement and any arrangement made for the manufacturing, fabrication or assembling of such materials shall be deemed to be a contract or a subcontract subject to the provisions of this section.

The board of supervisors shall have full power and authority to enact all necessary ordinances to carry out the terms of this section and may by ordinance provide that any contract for any public work or improvement, or for the purchase of materials which are to be manufactured, fabricated or assembled for any public work or improvement, a preference in price not to exceed ten per cent shall be allowed in favor of such materials as are to be manufactured,

fabricated or assembled within the City and County of San Francisco as against similar materials which may be manufactured, fabricated or assembled outside thereof. When any such materials are to be fabricated, assembled or manufactured by any sub-contractor or materialman for the purpose of supplying the same to any contractor bidding on or performing any contract for any public work or improvement, said sub-contractor or materialman manufacturing, fabricating, assembling or furnishing said materials manufactured, assembled or fabricated within the City and County of San Francisco shall be entitled to the same preferential as would any original contractor or materialman furnishing the same if the board of supervisors by ordinance so provide. When any ordinance shall so provide any officer, board or commission letting any contract may in determining the lowest responsible bidder for the doing or performing of any public work or improvement add to said bid or sub-bid an amount sufficient not exceeding ten per cent in order to give preference to materials manufactured, fabricated or assembled within the City and County of San Francisco.

7.205 Contract Procedure by Ordinance

The board of supervisors shall, by ordinance, establish the necessary procedure to be followed in the advertising for bids, the award of contracts, the supervision of contract work, and the acceptance thereof on completion; also for the security to be given on the filing of bids to guarantee the execution of the contract if awarded, and for the security to be given on the award of contract for the faithful performance thereof and to guarantee the payment of wages for services engaged and of bills contracted for material, supplies and equipment used in the performance of the contract.

7.206 Collusion

If any party or parties to whom a contract has been awarded has been guilty of collusion with any officer or representative of the city and county, or any other party or parties, in the submission of any bid or in preventing of any other being made, or in knowingly receiving preferential treatment by any officer or an employee of the city and county, then any contract so awarded, if not completed, may be declared null and void by the board of supervisors on the recommendation of the purchasing agent or the department head concerned, as the case may be, and the purchaser of supplies or the department head concerned shall thereupon re-advertise for bids for said work for the uncompleted portion thereof. If the work under such contract shall have been completed, the matter shall be referred to the city attorney for such action as may be necessary. Any party

or parties guilty of such collusion shall not be permitted to participate in or to bid on any future public work, improvement or purchase to be made by the city and county.

Chapter Three: Bond Issue

7.300 General Laws Applicable

The general laws of the State of California authorizing the incurring and establishing the procedure for the creation of bonded indebtedness and authorizing and establishing the procedure for the issuance of bonds to refund indebtedness of municipalities in force at the time any bonded indebtedness is created or refunded by the city and county shall, except as otherwise provided in this charter, be applicable to the creation of bonded indebtedness and the issuance of refunding bonds by the city and county.

7.301 Interest on Bonds During Construction

In any case where bonds have been authorized for the acquisition, construction or completion of a public utility or of extensions thereto, interest which may become due on said bonds during the actual period of construction of said utility, or of extensions to an existing utility, as the case may be, and during the period of six months immediately following the completion of the same may be paid out of the proceeds of sale of the bonds authorized and sold for such purpose, if such method of payment of interest be expressly provided for in the proceedings authorizing such bond issue.

7.302 Bonds for Street and Other Public Work—Revolving Fund

A municipal indebtedness may be authorized to be incurred by the voters, in the manner now or hereafter provided by the general laws of the State of California, for the purpose of financing public improvements the cost of which is to be assessed against private property benefited thereby, and bonds may be authorized by the voters to be issued therefor, the proceeds of which shall be used as a "Revolving Fund" to be applied to the payment of incidental and other expenses, the progressive payments on the work or works or to pay the principal or interest of bonds, securities or other evidences of debt issued against said special assessments or to purchase any bonds or coupons issued against such special assessments.

7.303 Bond Election by Petition.

In addition to the method prescribed by the other provisions of this charter, the proceedings for the authorization and issuance of bonds for the acquisition, construction or completion of any public

utility or utilities may also be initiated by electors in the manner following: Whenever a petition, signed by qualified electors of the city and county equal in number to fifteen per cent of the electors who voted for all candidates for the office of mayor at the last general election at which a mayor of the city and county was elected, requesting the board of supervisors to submit to the electors of the city and county a proposition or propositions for incurring bonded indebtedness for the acquisition, construction or completion of any public utility or utilities shall be filed in the office in which initiative petitions are required by this charter to be filed, the board of supervisors shall, as soon thereafter as in its judgment shall be practicable, proceed to call an election and submit to the electors of the city and county the proposition or propositions of incurring bonded indebtedness of the city and county for the purpose or purposes set forth in said petition. Neither errors nor informalities in said petition or in the signatures thereto nor the failure of the percentage of electors herein specified to sign the same, nor any delay in submitting said proposition or propositions to the electors shall invalidate any bonds which may be issued and sold pursuant to the provisions hereof. The provisions of this charter relating to the filing, verification and certification of initiative petitions shall be applicable to the petition herein referred to. Such election shall be called and held in the same manner as other bond elections of the city and county, and all proceedings for the issuance of bonds for the acquisition, construction or completion of such public utility or utilities, excepting only as otherwise provided in this section, shall be taken in accordance with the provisions hereinbefore set forth in this charter.

7.304 Bonds for Capital Improvement Projects

Whenever the capital improvement program recommended by the planning commission pursuant to section 6.202 contains a number of capital improvement projects with estimated costs of less than $2,000,000 each and the board of supervisors by resolution adopted by two-thirds vote of all its members determines that public interest and necessity require the acquisition, construction or completion of more than one of such capital improvement projects to be specified in said resolution, but that the total estimated cost of said improvements will be too great to be paid out of the ordinary annual income and revenue of the city and county, and will require an expenditure greater than the amount allowed therefor by the annual tax levy and will require the incurring of a bonded debt, the board at any subsequent meeting may by a two-thirds vote of all its members pass an ordinance calling an election and ordering submission to the

qualified voters of the city and county the single proposition of incurring a bonded indebtedness for the group of public improvements specified in said resolution. Such election shall be called and held in the same manner as other bond elections of the city and county. If the proposition receives the assent of two-thirds of the qualified electors voting in favor thereof, the bonded indebtedness may then be incurred for said group of public improvements. No proposition or propositions for incurring a bonded indebtedness shall be submitted to the voters at any one election pursuant to the provisions of this section where the total estimated cost of the group or groups of public improvements involved exceeds the sum of $6,000,000.

The proceeds of the sale of bonds authorized at any such election (except premium and accrued interest received on the sale thereof) shall be applied exclusively for said group of public improvements, but in such amounts applicable to each thereof as the board of supervisors may from time to time determine, provided that as nearly as practicable each capital improvement project comprising a part of said group of public improvements shall be acquired, constructed and completed to the extent of funds then available therefor, which may be more or less than the original estimated cost of any capital improvement project comprised within said group of public improvements.

The provisions of the Municipal Bond Act of 1901, as amended, presently codified as Article 1, Chapter 4, Division 4, Title 4, of the Government Code of the State of California authorizing the incurring and establishing the procedure for the creation of bonded indebtedness by cities shall except as otherwise provided herein, be applicable to the creation of the bonded indebtedness authorized by this section.

7.305 Revenue Bonds of the Port Commission

The Port Commission shall have the exclusive power to perform or accomplish the issuance of revenue bonds in the same manner and to the same extent as is provided for by the San Francisco Harbor Revenue Bond Act of 1951, enacted by Stats. 1951, Chapter 1712, page 4020, of the Statutes of California and codified as Sections 3300 to 3369 of the Harbors and Navigation Code of the State of California, except that the provisions of said Act codified as Section 3338 of the said Harbors and Navigation Code shall not be applicable to these bonds and the bonds shall instead be governed by the following provision:

The San Francisco Port Commission may fix terms and conditions for the sale or other disposition of any authorized issue of bonds and

may provide that the bonds may be sold on the basis of the lowest net interest cost to the San Francisco Port Commission, the coupon rates to be fixed by the successful bidder on the sale of the bonds. The San Francisco Port Commission may authorize the City Treasurer to sell bonds at less than their par or face value, but no bond may be sold at a price below 95% of the principal amount of the bond and accrued interest thereon. The said San Francisco Port Commission may set the annual rate or rates of interest which the bonds to be issued shall bear, which rate or rates, at the discretion of the said Commission, may be determined by the bidder at the time of sale of said bonds. Such interest may be payable at such periods as may be fixed by the Commission.

All of the other provisions of said Act are by this reference incorporated in and made a part of this charter, except that where the term "Board of State Harbor Commissioners" is used it shall be deemed to mean the "Port Commission," and where the term "San Francisco Harbor" is used it shall be deemed to mean all the property under the jurisdiction of the San Francisco Port Commission, and where the term "San Francisco Harbor Bond Finance Board" or "Bond Finance Board" is used it shall be deemed to mean "Board of Supervisors of the City and County of San Francisco," and where the term "Attorney General of the State of California" is used it shall be deemed to mean "City Attorney," and where the term "State Treasurer" is used it shall be deemed to mean "City Treasurer," and where the term "State Controller" is used it shall be deemed to mean "City Controller." The revenue bonds issued hereunder shall be known as "Revenue Bonds of the Port Commission of San Francisco."

7.306 Airport Revenue Bonds

Subject to the approval, amendment or rejection of the board of supervisors in each instance, the airports commission shall have authority to issue airport revenue bonds for the purpose of acquiring, constructing, improving or developing airports or airport facilities under its jurisdiction under such terms and conditions as the commission may authorize by appropriate resolution. Such revenue bonds shall be issued in accordance with the Revenue Bond Law of 1941 as it now reads or may hereafter be amended. The provisions of Sections 54380 through 54387, inclusive, of the Government Code shall not apply to the issuance and sale of such revenue bonds. Such revenue bonds shall bear a rate of interest not to exceed that which may be fixed and prescribed by the commission subject to the approval or rejection of the board of supervisors without regard to the limitations contained in the Revenue Bond Law of 1941. Such

bonds issued by the commission pursuant to the provisions of this section 7.306 shall not constitute or evidence indebtedness of city and county but shall constitute and evidence only indebtedness of said commission payable solely out of revenues received by the commission from airports or airport facilities operated or controlled by it. Airport revenue bonds issued for such purposes pursuant to this section shall not be included in the bonded debt limit provided for in section 6.401 of this charter. Nothing in this section shall prevent the city and county from issuing general obligation bonds for the purpose of acquiring, constructing, improving or developing airports or airport facilities under the commission's jurisdiction, subject to the bond issue procedure provided for in this charter.

7.307 Interest Rates on Bonds

Notwithstanding any other provision of this charter, or of any bond act, ordinance, or resolution to the contrary, if any general obligation bonds of the city heretofore or hereafter authorized by vote of the people have been offered for sale and not sold, the board of supervisors may raise the maximum rate of interest payable on all general obligation bonds authorized but not sold, whether or not such bonds have been offered for sale, to a maximum interest rate not in excess of seven percent by a two-thirds vote of all members of said board.

7.400 Director of Property

The director of property shall be the head of the department of property. He shall have charge of the purchase of real property and improvements required for all city and county purposes, and the sale and lease of real property and improvements thereon owned by the city and county, except as otherwise provided by this charter. In the acquisition of property required for street opening, widening or other public improvements, the director of property shall make preliminary appraisals of the value of the property sought to be condemned or otherwise acquired, and report thereon to the responsible officer. It shall be his duty, in addition, to assist in such proceedings on the request of the responsible officer.

He shall have charge of the management of the exposition auditorium.

Each department authorized by the approval of bond issues or by annual or supplemental appropriation ordinances to purchase or lease property or improvements needed for the purposes of such department shall make such purchases or leases through the director of property. He shall make a preliminary valuation of the property to

be acquired or leased and report the same to the department requiring such property. For such purposes he may employ independent appraisers. He shall conduct negotiations with the owner or owners thereof, at the conclusion of which he shall report the terms on which such sale or lease may be concluded, together with his recommendations thereon. The head of the department concerned may report to the board of supervisors and recommend acceptance or that proceedings in eminent domain be instituted for the acquisition of such property.

The director of property shall maintain complete records and maps of all real property owned by the city, which shall show the purchase price, if known, and the department in charge of each parcel, with reference to deeds or grants establishing the city's title.

He shall annually report to the mayor, the controller, the chief administrative officer, and the supervisors the estimated value of each parcel and improvement. He shall make recommendations to the mayor and chief administrative officer relative to the advantageous use, disposition, or sale of real property not in use.

7.401 Sale or Exchange of Real Property

Any real property owned by the city and county, excepting lands for parks and squares, may be sold on the recommendation of the officer, board or commission in charge of the department responsible for the administration of such property. When the board of supervisors, by ordinance, may authorize such sale and determine that the public interest or necessity demands, or will not be inconvenienced by such sale, the director of property shall make a preliminary appraisal of the value of such property. The director of property shall advertise by publication the time and place of such proposed sale. He shall forthwith report to the department head concerned and to the supervisors the amount of any and all tenders received by him. The supervisors may authorize the acceptance of the highest and best tender, or they may, by ordinance, direct that such property be sold at public auction, date of which shall be fixed in the ordinance. No sale other than a sale at public auction shall be authorized by the supervisors unless the sum offered shall be at least ninety percent of the preliminary appraisal of such property hereinbefore referred to.

The director of property may, in lieu of sale, arrange for the trading of any real property proposed to be sold for other property required by the department in charge thereof, on the recommendation of the officer, board or commission in charge of such property and the authorization, by ordinance, of the board of supervisors.

7.402 Lease of Real Property

(a) When the head of any department in charge of real property shall report to the board of supervisors that certain land is not required for the purposes of the department, the board of supervisors, by ordinance, may authorize the lease of such property. The director of property shall arrange for such lease for such period as prescribed pursuant to subparagraph (c) of this section to the highest responsible bidder at the highest monthly rent. The director of property shall collect rents due under such lease.

(b) The public utilities commission shall have exclusive power to lease agricultural or other lands used and useful for water department purposes and at the same time available for leasing or rental for agricultural or other purposes and such leases shall be subject to administration by the operating forces of the water department.

(c) The board of supervisors shall have the power, by ordinance, subject to the referendum provisions of this charter, to provide a longer term for leases executed under this section than that provided for herein providing, however, that until such ordinance shall become effective the limitations contained in this section as to the term of the lease shall control.

7.403 Sale or Lease of Park Land

(a) Notwithstanding any other provisions of this charter, whenever lands which are or shall be used or intended for use for parks or squares are no longer needed for park or recreational purposes, such lands may be sold or otherwise disposed of, or their use for park purposes may be abandoned or discontinued; provided that nothing herein shall be construed to authorize the discontinuance or abandonment of the use of such lands, or any change in the use thereof which will cause the reversion of such lands to private ownership, or cause the forfeiture of the ownership thereof in fee by the City and County of San Francisco, or as authorizing the discontinuance of the use of park lands acquired in any proceeding wherein a local assessment based on benefits was or shall be levied to provide funds for such acquisition; and provided further that the general laws of the State of California authorizing municipal corporations to abandon or to discontinue the use of land for park purposes, authorizing the sale or other disposition of such lands, and providing procedures therefor and for matters relating thereto, shall be applicable to the City and County of San Francisco and to all lands held or used by it for park purposes and shall govern and control exclusively in respect thereto.

(b) Except as provided in subsection (c) the recreation and park

commission shall not lease any part of the lands under its control nor permit the building or maintenance or use of any structure on any park, square, avenue or ground, except for recreation purposes, and each letting or permit shall be subject to approval of the board of supervisors by ordinance. The commission may lease to the highest responsible bidder for a term of not to exceed fifty years and upon such other terms and conditions as it may determine, subsurface space under any public park or square and the right and privilege to conduct and operate therein a public automobile parking station, provided that the said construction, when completed, and the operation will not be, in any material respect or degree, detrimental to the original purpose for which said park or square was dedicated or in contravention of the conditions of any grant under which said park or square might have been received. The revenues derived from any such lease shall be credited to the recreation and park department fund.

(c) The recreation and park commission shall have the power to lease or rent any stadium or recreation field under its jurisdiction for athletic contests, exhibitions and other special events and may permit the lessee to charge an admission fee.

7.404 Sale or Lease of Public Utility Property

The board of supervisors shall have power to lease or sell any public utility or any part thereof; provided that any ordinance or other measure involving the lease or sale of any public utility or part thereof, except as provided in sections 7.401 and 7.402 of this charter, or any ordinance granting any new franchise for the operation of any public utility whose franchise has expired, or is about to expire, must be referred and submitted to a vote of the electors of the city and county at the election next ensuing not less than sixty days after the adoption of such ordinance, and shall not go into effect until ratified by a majority of the voters voting thereon.

7.405 Leases and Concessions on Airport Property

The airports commission shall have exclusive power to negotiate and, subject to approval by the board of supervisors shall execute leases of airport lands and space in airport buildings, without necessity for competitive bidding, to any person, firm, or corporation engaged in air transportation, or agency of government, for such purposes only; provided, that the original term of any such lease shall not exceed fifty years, nor shall any extension of such lease exceed a period of fifty years. The commission shall also have sole power, subject to competitive bidding and award to the highest responsible

bidder to lease out any concession wherein the concessionaire is to be given an exclusive right to occupy space on or in airport lands or buildings. There shall be no requirement for competitive bidding in the award by the commission of any concession in an instance where no exclusive right is given the concessionaire to occupy space on or in airport lands or buildings.

Other than as specifically provided herein, the airports commission shall have exclusive power to lease lands now devoted to airport purposes or lands that may hereafter be acquired and devoted to airport purposes for a period not to exceed fifty years, and the director of property shall arrange for such lease to the highest responsible bidder at the highest monthly or annual rent, subject to approval of the airports commission, and thereafter the administration of any and all such leases shall be by the airports commission. Section 7.404 of this charter shall not be applicable to leases referred to in this paragraph provided, however, that no lease of airport lands or agreement which divests the city and county of the right to manage, operate or control the aircraft landing field, the entire part of the airport not devoted to the aircraft landing field, or the entire airport shall be made without the approval of the board of supervisors by ordinance and referral and submission to a vote of the electors of the city and county at the election next ensuing not less than sixty days after the adoption of such ordinance, and such ordinance shall not go into effect until ratified by a majority of voters voting thereon.

Chapter Five: Zoning

7.500 Approval of Permits and Licenses

No permit or license that is dependent on or affected by the zoning, set-back or other ordinances of the city and county administered by the city planning commission shall be issued except on the prior approval of the city planning commission.

7.501 Zoning Amendments

The city planning commission shall consider and hold hearings on proposed ordinances and amendments thereto regulating or controlling the height, area, bulk, setbacks, location, use or related aspects of any building or structure or land, including but not limited to the zoning ordinance and other portions of the city planning code. Such proposals may be initiated by the board of supervisors and referred to the commission, or they may be initiated by the comission itself. In the case of a reclassification of property (change in district boundaries) or establishment, abolition or modification of a setback

line, such proposals may be initiated by the application of interested property owners or their authorized agents.

Procedures for action on such matters shall be as prescribed by the board of supervisors by ordinance. The commission shall approve any such proposal in whole or in part, or shall disapprove it.

If the commission approves the proposal in whole or in part, it shall be presented to the board of supervisors together with the written approval of the commission, and the board may adopt such proposal, as approved, by ordinance by a majority vote.

If the commission disapproves the proposal in whole or in part, such action shall be final; except that in the case of a proposal initiated by the board, notice of the commission action shall be sent to the board without the necessity for an appeal; and except further that, in the case of a reclassification of property or establishment, abolition or modification of a setback line initiated by application, appeal may be taken to the board of supervisors by filing written notice of appeal with the said board within thirty days after such action. Such notice of appeal shall be subscribed by the owners of at least twenty per cent of the property affected by such change, excluding any property that is owned by the City and County of San Francisco, the United States Government or the State of California, or any department or agency thereof, or by any special district, unless the owner of such property shall itself be a subscriber of the notice of appeal. An action of the city planning commission so appealed shall not become effective unless and until approved by the board of supervisors in accordance with this section.

Upon receiving such written notice of appeal, the board of supervisors or the clerk thereof shall set a time and place for hearing such appeal, which shall be not less than ten (10) nor more than thirty (30) days after the filing of such notice of appeal. The board of supervisors must decide such appeal within thirty (30) days of the time set forth for the hearing thereon, provided that, if the full membership of the board is not present on the last day on which said appeal is set or continued for hearing within said period, the board may postpone said hearing and decision thereon until, but not later than, the full membership of the board is present; provided, further, that the latest date to which said hearing and decision may be so postponed shall be not more than ninety (90) days from the date of filing of the appeal. Failure of the board of supervisors to act within such time limit shall be deemed to constitute approval by the board of the action of the city planning commission.

In acting upon any such appeal, or in acting upon any proposal initiated by the board of supervisors and disapproved by the commission, said board of supervisors may disapprove the action of

the commission, and in the event of any such disapproval, the board shall adopt the proposed ordinance or amendment thereto at the next regularly scheduled meeting of the board; provided, however, that in the case of any reclassification of property or establishment, abolition or modification of a setback line, any such disapproval and adoption shall be by a vote of not less than two-thirds of all members of the board.

Whenever any such proposed ordinance or amendment thereto, or any part thereof, initiated by application, has been disapproved by the city planning commission or by the board of supervisors on appeal, no application proposing the same or substantially the same ordinance or amendment shall be resubmitted to or reconsidered by the commission within a period of one year from the effective date of final action upon the earlier application.

7.502 Zoning Administration

There shall be in the department of city planning a zoning administrator appointed subject to the civil service provisions of this charter who shall administer and enforce the zoning and set-back ordinances. He shall receive and investigate all applications for proposed amendments thereto and shall submit his report and recommendations thereon to the director of planning prior to the hearing by the city planning commission.

7.503 Zoning Variances

The zoning administrator shall receive, investigate, hear and determine all applications for variances from the strict application of the provisions of the aforesaid ordinances. The board of supervisors shall establish by ordinance the procedure for action on such matters, including the manner by which notice of time and place of hearings shall be given. The zoning administrator shall have power to grant only such variances as may be in harmony with the general purpose and intent of said ordinances and in accordance with the general and specific rules therein contained, subject to such conditions and safeguards as he may impose. He shall have authority to grant such variances only when the strict and literal interpretation and enforcement of the provisions of said ordinances would result in practical difficulties, unnecessary hardships or results inconsistent with the general purposes of the zoning regulations. Before any such variance may be granted, there shall appear, and the zoning administrator shall specify in his findings, the facts in each case which shall establish:

(1) That there are exceptional or extraordinary circumstances or conditions applying to the property involved or to the intended use

of the property that do not apply generally to the property or class of uses in the same district or zone;

(2) That such variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner, possessed by other property in the same zone and vicinity; and

(3) That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such zone or district in which the property is located.

The determination of the zoning administrator shall be final except that appeals therefrom may be taken, as hereinafter provided, to the board of permit appeals, exclusively and notwithstanding any other provisions of this charter, by any person aggrieved or by any office, agency, or department of the city and county. An appeal from a determination of the zoning administrator shall be filed within ten days from the date of such determination with the board of permit appeals. Upon making a ruling or determination upon any matter under his jurisdiction, the zoning administrator shall thereupon furnish a copy thereof to the applicant and to the director of planning. No variance granted by the zoning administrator shall become effective until ten days thereafter. An appeal shall stay all proceedings in furtherance of the action appealed from.

Chapter Six: Public Works Procedures

7.600 Procedure by General Law or Ordinance

Where a procedure for the exercising of any rights and powers belonging to a city, or a county, or a city and county, relative to the establishment or change of grades and the lay-out, extension, opening, widening, changing, closing, vacating, paving, repaving or otherwise improving streets and highways and public places and constructing sewers, drains, conduits and culverts, subways, tunnels, viaducts, and bridges, or other public improvements incidental or appurtenant thereto, to planting trees, constructing parking and removing weeds or the executing of any other public work or improvement hereby or hereafter placed under the jurisdiction of the department of public works, and the payment of damages, or levying of special assessment to defray the whole or part of the cost of such works or improvements is provided by statute of the State of California, such procedure shall control and be followed, unless a different procedure is provided in or under authority of this charter or by ordinance continued by this charter or any such ordinance hereafter amended or by ordinance passed by the board of supervisors, and the board of supervisors is hereby empowered to provide by ordinance for any such purpose.

7.601 Repair of Accepted Streets

When any roadway of a street or portion thereof for not less than one continuous block has been paved in accordance with the specifications of the department of public works, and is in good condition, and sewer, gas and water pipes have been laid therein, the same shall be accepted by the supervisors by ordinance on the written certificate of the city engineer, and thereafter such portion of the roadway of said street shall be kept in repair and improved by the city and county. It shall be the duty of the owner of any property fronting on a public street to keep the sidewalk in front thereof in good repair and condition and the board of supervisors is hereby empowered to provide by ordinance for the repair of such sidewalks in all cases where the owner fails and neglects to repair the same.

Nothing herein contained shall relieve any railway company from making repairs to the roadway of any street in conformity with the terms of its franchise or as provided by law.

7.602 Use of Patented Pavement

No patented pavement shall be ordered during the existence of the patent therefor, until the owner of such patent shall have transferred to the city and county all right to use of the same therein, with the privilege to any person to manufacture and lay same upon the streets under any contract that may be awarded to or entered into by him with the city and county.

7.603 Special Assessment Projects

The board of supervisors shall establish a public improvement revolving fund to which the board may make appropriations from tax levies thereto for the purpose of such fund, and may establish procedure for the use of the credit of the city and county for the establishment of said revolving fund, to be used solely for the purpose of financing all or part of the initial cost of public improvements to be paid in whole or in part from the proceeds of special assessments levied against the property deemed to be benefited. A bond issue or issues may be proposed, as authorized elsewhere in this charter, the proceeds of which shall be paid into said revolving fund for the financing of public improvements, provided that said revolving fund shall be reimbursed as prescribed in this section by the levy and collection of special assessments and that the interest and redemption or sinking fund charges on any bonds authorized for such purpose shall be paid from the proceeds of such levy.

On the recommendation of the director of public works and the chief administrative officer, sufficient bonds may be sold at one time to provide funds for the estimated cost of financing special assessment projects for a period of not to exceed one year. When any public improvement is to be financed in whole or in part from the proceeds of special assessments levied against the land deemed to be benefited, the director of public works, subject to the approval of the chief administrative officer, shall report to the controller the estimated cost of such improvement, the amount thereof to be levied by special assessment and the estimated amount of the appropriation to be made from the public improvement revolving fund to meet the initial cost of the project, including progressive payments and other direct or indirect costs chargeable to such project, and shall recommend the appropriation of the necessary sum from such revolving fund.

The supervisors, by ordinance, may provide for the amount to be added to the contract price and other costs of the work, as interest for the use of the revolving fund moneys in financing the cost of the improvement. Interest at the rate of not more than seven per cent may be charged on the unpaid balances of special assessments in cases where the owners of property against which such assessments are levied elect to pay such assessments in installments.

The amount of all special assessments levied for the payment of work financed out of the public improvement revolving fund, together with all interest accruing thereon, shall be credited as collected to such revolving fund. The board of supervisors may prescribe the duties of any city and county office, agency or department in maintaining accounts of and collecting assessments for each such improvement.

7.604 Sewer, Water and Other Connections

The director of public works shall have authority, in the manner provided by ordinance by the board of supervisors, (1) to order the laying of sewer, water, gas and other mains, conduits or connections, whenever, in view of contemplated street improvements or as a sanitary regulation, such construction is recommended by the city engineer, and (2) to order that excavations, fences, embankments or grades on private property in a condition deemed by him as endangering the persons or property of those using the abutting streets, shall be put in such condition as to insure the safety of the public.

7.605 Defective Sidewalks

If any portion of any sidewalk or street in the city and county which has been accepted as provided by law shall be in such defective condition as to endanger persons or property and through the official negligence of the director of public works, such defect remains unremedied, unrepaired or unbarricaded, and in consequence thereof damage or loss to person or property is sustained or suffered, the said director shall be liable to the party injured for the damage sustained; provided that a notice in writing directing attention to the existence of such defect, and specifying the particular street and block thereof whereon or wherein such defect exists shall have been served upon such director at least five days before such damage shall have been sustained; and provided further, that there are at such times funds available to the said director for repairing or remedying such defects or barricading the same.

7.606 Spur Tracks

The board of supervisors shall refer all requests for spur track permits to the director of public works who shall grant such permits in all cases where the spur track is to be located within a heavy industrial zone, as classified by the city planning commission, provided that such spur track shall be constructed and operated as not to establish an unreasonable interference with the public use of the streets affected. The board of supervisors shall refer all other requests for spur track permits to the director of public works for report thereon, which shall be submitted by him within ten days after such reference, and shall not grant permission to lay any spur track until a report thereon shall have been received from said director, to the effect that such construction and operation will not create an unreasonable interference with the public use of the streets affected.

Chapter Seven: Miscellaneous Provisions

7.700 Taxpayers' Suits

In the event that a taxpayer of the city and county institute suit or other proceeding as provided by law against any officer, board or commission of the city and county in the name of said taxpayer on behalf of the city and county, if judgment be finally entered in his favor he shall be allowed his costs and also such reasonable compensation for attorney's fees as may be fixed by the court.

7.701 Relocation of Produce District

Whenever the board of supervisors finds that it is necessary to relocate produce and related food processing establishments because of a redevelopment plan adopted pursuant to Community Redevelopment Law of California, as amended, and in order to promote, foster and encourage the intelligent and orderly marketing of such products through cooperation; to eliminate speculation and waste; to make the distribution of such products between producer and consumer as directly as can be feasibly done; and to establish a market for such products in the interest of the people of San Francisco, the board of supervisors by ordinance may authorize the purchase, lease or exchange of such real property within the City and County of San Francisco as may be deemed desirable for the establishment, maintenance, equipment, ownership and operation of a municipal market for such purposes, or the sale, exchange or lease of such real property to any person, firm or association for the establishment or maintenance of such market. Notwithstanding any other provisions of this charter, sales, exchanges or leases not to exceed fifty years may be made or executed by negotiation after public notice and public hearing under such regulations and on such terms and conditions as may be deemed proper with or without bids, under ordinance enacted by a three-fourths vote of all members of the board of supervisors.

7.702 Hours of Public Offices

Except where otherwise provided by law, all public offices shall be open for business every day, except legal holidays, from eight-thirty o'clock A.M., until five o'clock P.M. The supervisors by ordinance may provide that any office shall be kept open for a longer time, when necessary for the accommodation of the public, and may also provide by ordinance that any office shall be closed on Saturday, of each week during all or any part of the year.

7.703 Limits on Claims for Damages

All claims for money or damages against the city and county must be filed in accordance with the general law of the State of California applicable to the filing of claims against local public entities; otherwise no suit for money or damages may be brought against the city and county.

All claims heretofore presented within the time prescribed by the general law of the State of California and which substantially complied therewith at the time of the presentation shall be deemed to have been properly presented.

This section applies only to claims relation to causes of action arising subsequent to the effective date of Chapter 1724, California Legislature, 1959 Regular Session.

Except as otherwise provided for in other sections of the charter, the board of supervisors, by ordinance, shall prescribe the method whereby claims or litigation, or proceedings, based thereon, may be settled, compromised, adjusted or dismissed.

7.704 Permits and Licenses

The board of supervisors shall regulate, by ordinance, the issuance and revocation of licenses and permits for the use of, obstruction of or encroachment on public streets and places, exclusive of the granting of franchises governed by other provisions of this charter; and for the operation of businesses or privileges which affect the health, fire-prevention, fire-fighting, crime, policing, welfare or zoning conditions of or in the city and county, and for such other matters as the board of supervisors may deem advisable.

Such ordinance shall fix the fees or licenses to be charged. Said ordinance shall also specify which department shall make the necessary investigations and inspections and issue or deny and may revoke the permits and licenses therefor.

Permits and licenses shall be issued by the departments as designated by ordinance, only after formal application for such permit or license.

If any application for a permit or license is denied by the department authorized to issue same, the applicant may appeal to the board of permit appeals.

ARTICLE VIII.
THE RIGHTS AND OBLIGATIONS OF OFFICERS AND EMPLOYEES

Chapter One: Qualifications and Conduct

8.100 Qualifications

(a) No person shall be a candidate for any elective office nor shall be appointed as a member of any board or commission unless he shall have been a resident of the city and county for a period of at least five years and an elector thereof for at least one year immediately prior to the time of his taking office, unless otherwise specifically provided in this charter, and every elected officer and member of any board or commission shall continue to be a resident of the city and county during incumbency of office, and upon ceasing to be such resident, shall be removed from office.

(b) Except for those offices and positions and officers and employees specifically provided for in this section and other sections of the charter, the residential qualifications and requirements for all officers and employees and all offices and positions in the city and county service shall be as provided by ordinance of the board of supervisors.

(c) All officers and employees of the city and county shall be citizens of the United States.

8.101 Surety Bonds

Unless otherwise provided in this charter, such officers and employees as may be specified by ordinance, shall give bond in such amounts as may be required by the ordinance, provided that the minimum amount of the bond to be furnished by the controller be $100,000; and by the tax collector $100,000; by the county clerk $50,000, and by the public administrator $50,000. The board of supervisors shall provide by ordinance the terms, form and conditions of all such bonds and for the filing thereof. The sureties on such bonds shall be such as specified by and approved in the manner provided by ordinance. The board of supervisors may, by ordinance, provide for group bonding of officers and employees. The premiums on all official bonds shall be paid by the city and county.

8.102 Absence from State

No officer of the city and county, except members of the police department acting under orders of the chief thereof, shall absent himself from the state, except by permission of the mayor and the board of supervisors. Violation of this section shall be sufficient cause for removal of any officer violating the same.

8.103 Dual Office Holding

Any person holding a salaried office under the city and county, whether by election or appointment, who shall, during his term of office, hold or retain any other salaried office under the government of the United States, or of this state, or who shall hold any other salaried office connected with the government of the city and county, or who shall become a member of the legislature, shall be deemed to have thereby vacated the office held by him under the city and county.

8.104 Vacancies

An office becomes vacant when the incumbent thereof dies, resigns, is adjudged insane, convicted of a crime involving moral turpitude, or of an offense involving a violation of his official duties,

or is removed from office, or ceases to be a resident of the city and county, or neglects to qualify within the time prescribed by law, or within twenty days after his election or appointment, or shall have been absent from the state without leave for more than sixty consecutive days.

8.105 Conflict of Interest and other Prohibited Practices

(a) No member of any board or commission shall accept any employment relating to the business or the affairs of any person, firm or corporation which are subject to regulation by the board or commission of which he is a member. No supervisor and no officer or employee of the city and county, shall be or become, directly or indirectly, interested in, or in the performance of, any contract, work, or business, or in the sale of any article, the expense, price or consideration of which is payable from the treasury; or in the purchase or lease of any real estate or other property belonging to, or taken by, the city and county, or which shall be sold for taxes and assessments, or by virtue of legal process at the suit of the city and county; nor shall any person in this section designated during the time for which he was elected or appointed, acquire an interest in any contract with, or work done for, the city and county, or any department or officer thereof, or in any franchise, right or privilege granted by the city and county, unless the same shall be devolved upon him by law; nor shall any person mentioned in this section give or promise any money or other valuable thing, or any portion of his compensation, in consideration of his nomination, appointment, or election to any city and county office or employment; or accept any donation or gratuity in money or other valuable thing, either directly or indirectly, from any subordinate or employee or from any candidate or applicant for a position as employee or subordinate under him.

(b) No supervisor and no officer or employee of the city and county shall engage in any activity, employment or business or professional work or enterprise which is inconsistent, incompatible, or in conflict with his duties as a supervisor or officer or employee of the city and county or with the duties, functions and responsibilities of his appointing power, or the department, office or agency by which he is employed, or the board or commission of which he is a member.

(c) The civil service commission with respect to officers and employees whose positions are subject to the civil service provisions of the charter other than officer and members of the fire and police departments, the fire commission with respect to officers and members of the fire department and the police commission with

respect to officers and members of the police department, are each empowered to prescribe and enforce such reasonable rules and regulations as each commission deems necessary to effectuate the purposes and intent of this section. Such rules and regulations may provide for restrictions against activities, employments and enterprises other than those described or mentioned herein when such restrictions are found necessary for the preservation of the honor or efficiency of the city and county civil service or for the protection of the best interests of the city and county service in any respect.

(d) Violation of any of the provisions of this section shall constitute official misconduct or cause for dismissal and shall subject the violator to the proceedings and penalties provided therefor in the charter.

(e) A supervisor, officer or employee shall not be deemed interested in or in the performance of any contract, work, business, or the sale of any article, the expense, price or consideration of which is payable from the treasury, within the meaning of subsection (a) unless such contract, work, business or sale is awarded, entered into, or authorized by him in his capacity as supervisor, officer or employee, or by an officer or employee under his supervision and control, or by a board or commission of which he is a member.

(f) A supervisor or officer of the city and county shall not be deemed interested in any such contract, work, business or sale awarded, entered into or authorized by a board or commission of which he is a member if he has only a remote interest therein and the fact of such interest is disclosed to the board or commission of which he is a member and noted in its official records and the board or commission authorizes, approves, or ratifies the contract in good faith by a vote of its membership sufficient for the purpose without counting the vote or votes of the supervisor, officer or member with the remote interest, unless the contract must be awarded to the highest or lowest responsible bidder as the case may be on a particular day and the vote of such supervisor, officer or member is necessary to a quorum on that day.

(g) As used in this section "remote interest" means:

(1) The ownership of less than five per cent of the shares of a corporation for profit;

(2) That of a nonsalaried officer of a nonprofit corporation;

(3) That of an officer in being reimbursed for his actual and necessary expenses incurred in the performance of official duty;

(4) That of an employee of the contracting party having ten or more other employees; provided, that the supervisor or officer was an employee of said contracting party for at least three years prior to his initially accepting such office;

(5) That of a parent in the earnings of his minor child for personal services;

(6) That of a landlord or tenant of the contracting party;

(7) That of an attorney of the contracting party; or

(8) Except as to supervisors, such other interest or relationship other than those set forth in (1) to (7) above as may hereafter be designated by a vote of two-thirds of the members of the board of supervisors.

(h) All contracts, work, business or sales herein mentioned heretofore awarded, entered into or authorized by any board or commission of the City and County of San Francisco in which a supervisor, officer or member had a remote interest as hereinabove defined are hereby ratified and confirmed.

(i) The provisions of subsections (e) to (h) of this section shall not be applicable to any supervisor, officer or employee who influences or attempts to influence the award, execution or authorization of any contract, work, business or sale, the expense, price or consideration of which is payable from the treasury, in which he has a direct or indirect interest.

8.106 Penalty for Official Misconduct

Any person found guilty of official misconduct shall forfeit his office, and shall be forever after debarred and disqualified from being elected, appointed or employed in the service of the city and county.

8.107 Suspension and Removal

Any elective officer, and any member of the civil service commission or public utilities commission or school board may be suspended by the mayor and removed by the board of supervisors for official misconduct, and the mayor shall appoint a qualified person to discharge the duties of the office during the period of suspension. On such suspension, the mayor shall immediately notify the supervisors thereof in writing and the cause therefor, and shall present written charges against such suspended officer to the board of supervisors at or prior to its next regular meeting following such suspension, and shall immediately furnish copy of same to such officer, who shall have the right to appear with counsel before the board in his defense. Hearing by the supervisors shall be held not less than five days after the filing of written charges. If the charges are deemed to be sustained by not less than a three-fourths vote of all members of the board, the suspended officer shall be removed from office; if not so sustained, or if not acted on by the board of supervisors within thirty days after the filing of written charges, the suspended officer shall thereby be reinstated.

The mayor must immediately remove from office any elective official convicted of a crime involving moral turpitude, and failure of the mayor so to act shall constitute official misconduct on his part.

Any appointee of the mayor, exclusive of civil service, recreation and park, and public utilities commissioners, and members of the school board, may be removed by the mayor. Any nominee or appointee of the mayor whose appointment is subject to confirmation by the board of supervisors, except the chief administrative officer and the controller, as in this charter otherwise provided, may be removed by a majority of such board and with the concurrence of the mayor. In each case, written notice shall be given or transmitted to such appointee of such removal, the date of effectiveness thereof, and the reasons therefor, a copy of which notice shall be printed at length in the journal of proceedings of the board of supervisors, together with such reply in writing as such official may make. Any appointee of the mayor or the board of supervisors guilty of official misconduct or convicted of crime involving moral turpitude must be removed by the mayor or the board of supervisors, as the case may be, and failure of the mayor or any supervisor to take such action shall constitute official misconduct on his or their part.

Chapter Two: Creation of and Changes in Positions

8.200 Procedure

Positions in any office, agency, or department of the city and county may be created, as provided by this charter, by appropriation ordinance of the board of supervisors. Copy of each such ordinance creating or abolishing positions shall be filed, on the approval thereof, with the civil service commission by the clerk of the board of supervisors. Before the appointing officer shall make recommendation for the creation of any new or additional position in any office, agency, or department, he shall request and receive from the commission the proper designation and classification of such position based on the duties and responsibilities thereof, and if such position is included in the classified civil service, the commission may, in writing, express to the appointing officer its opinion as to whether or not such position is needed.

Immediate notice in writing shall be given to the civil service commission by the appointing officer of each office, agency, and department of the city and county of the creation or abolition of any position, or of any change in duties if the position is included in the classified civil service, or of any appointment, resignation, suspension, dismissal or other creation of vacancy therein, with the date of any such change. If said appointing officer is also empower-

ed to establish compensation rates or make changes therein, he shall notify the commission of any such rate or change therein. The commission shall maintain a record of all such notifications.

The term "appointing officer" as used in this charter shall also include any board or commission in the exercise of its power to appoint a principal executive or other officer or employee designated by this charter as appointive by such board or commission.

Chapter Three: Civil Service Provisions

Part One: Positions Subject to Civil Service

8.300 Civil Service Positions

(a) All positions in all departments and offices of the city and county, including positions created by laws of the State of California, where the compensation is paid by the city and county, shall be included in the classified civil service of the city and county, and shall be filled from lists of eligibles prepared by the civil service commission, excepting:

(1) Positions in which attorneys and physicians are employed in their professional capacity to perform only duties included in their professions, but exclusive of any administrative or executive positions for which such professional status constitutes only part of the qualification therefor;

(2) Inmate help or student nurses, or part-time services, where the compensation including the value of any allowances in addition thereto does not exceed one hundred fifty dollars ($150) per month. Provided that for each fiscal year following fiscal year 1963, the civil service commission shall adjust the one hundred fifty dollar ($150) maximum for part-time service as provided herein, in accordance with the average percentage increase or decrease approved for all classifications under the provisions of section 8.400 and 8.401 of this charter, and such adjusted rate shall be included in the annual salary ordinance. Provided further that such part-time positions shall not be exempted from being filled from appropriate lists of civil service eligibles, except upon the recommendation of the appointing officer, who shall set forth the schedule of operations showing that the operations involved require the service of employees for not more than seventy (70) hours per month and approval of the civil service commission, including a certification that such part-time positions cannot practically be filled from existing eligible lists. These provisions shall not be used to split or divide any position into two or more units for the purpose of evading the provisions of this section;

(3) Persons employed in positions outside the city and county upon construction work being performed by the city and county when such positions are exempted from said classified civil service by an order of the civil service commission;

(4) Persons employed in positions in any department for expert professional temporary services, and when such positions are exempted from said classified civil service for a specified period of said temporary service, by order of the civil service commission;

(5) Such positions as, by other provisions in this charter, are specifically exempted from, or where the appointment is designated as exclusive of, the civil service provisions of this charter.

The civil service rights, acquired by persons under the provisions of the charter superseded by this charter, shall continue under this charter.

Any person holding a salaried office under the city and county, whether by election or appointment, who shall, during his term of office, hold or retain any other salaried office under the government of the United States, or of this state, or who shall hold any other salaried office connected with the government of the city and county, or who shall become a member of the legislature, shall be deemed to have thereby vacated the office held by him under the city and county.

(b) Positions as heads of offices, agencies, departments, bureaus, or institutions shall be subject to the civil service provisions of this charter unless specifically exempted.

(c) Notwithstanding any other provisions of this charter, the city and county shall perform all acts necessary to protect the employment rights of employees of the port authority as specified in Section 20 of Statutes 1968, ch. 1333.

(d) All positions in buildings and improvements of the california academy of sciences for which funds shall be furnished by the city and county, under section 6.404 (d) of this charter, shall be held by employees of the city and county, with the exception of the director, the secretary of the board of trustees of said california academy of sciences, the curators and other scientific and professional personnel, and occupants of part-time positions for which a total compensation of less than $80.00 per month is provided by the city and county, inclusive of allowance for maintenance and other incidental benefits. Positions held by employees of the city and county at said buildings and improvements shall be subject to the civil service provisions of this charter and the compensation thereof shall be subject to the salary standardization provisions of this charter, in like manner and extent in all respects as positions and compensations of employments in the city and county service

generally, notwithstanding anything to the contrary contained in the charter or ordinances of said city and county. The chief administrative officer shall be the appointing officer as provided in this charter.

(e) All persons employed in the operating service of any public utility hereafter acquired by lease or under any other temporary arrangement, under which the city acquires the right to operate said utility, shall be continued in their respective positions and shall be deemed appointed to such positions under, and entitled to all, the benefits of the civil service provisions of this charter for the period of time during which the city shall continue to operate said utility under said lease or other temporary arrangement. Should the city permanently acquire said utility, said persons shall come into the permanent employ of the city and county in their respective positions and shall be deemed permanently appointed thereto under the civil service provisions of the charter and shall be entitled to all the benefits thereof, all subject to the provisions contained in section 8.300 (f) and 8.450 of the charter; provided, however, that said employees who are taken over into the employ of the city under said lease or other temporary arrangement shall not be subject to the residential qualifications of the charter, during the term of said lease or other temporary arrangement. All employees of any such utility, acquired or operated by the city under any lease or other temporary arrangement, who come into the employ of said utility after the temporary acquisition of same, shall be subject to the civil service provisions of the charter. The civil service rights of any person who comes into the service of the city under any lease or other temporary arrangement for the acquisition and operation of said utility shall cease and terminate upon the expiration of said lease or other temporary arrangement.

(f) All persons employed in the operating service of any public utility hereafter acquired by the city and county, at the time the same is taken over by the city and county, and who shall have been so employed for at least one year prior to the date of such acquisition, shall be continued in their respective positions and shall be deemed appointed to such positions, under, and entitled to all the benefits of, the civil service provisions of this charter.

(g) All employees engaged in public utility work at the time this charter shall go into effect, and who have been permanently appointed to their respective positions in conformity with the civil service provisions of this charter, shall except as otherwise provided by this charter become employees of the public utilities commission under the classification held by each such employee at such time.

(h) Any employee who was a permanent civil service appointee assigned to the airport department under the public utilities commis-

sion immediately prior to the effective date of this section, shall be continued without loss in civil service rights as an appointee of the airport department, provided that civil service rights as they relate to layoff in the event of lack of work or lack of funds of all permanent employees of the public utilities commission, including the airport department, immediately prior to the effective date of this section, shall be continued without loss in the same manner and to the same extent as though the airport department had not by these amendments been created a separate city function under the airports commission.

Part Two: Personnel Policy

8.310 Declaration of Personnel Policy

(a) All appointments in the public service shall be made for the good of the public service and solely upon merit and fitness, as established by appropriate tests, without regard to partisan, political, social or other considerations.

(b) Notwithstanding anything to the contrary in subsection (a) or any other provisions of the charter, it shall be the policy of the City and County of San Francisco, consistent with a policy of acquiring qualified personnel for the service of the city and county, to encourage the hiring of blind persons. It shall further be the policy of the City and County of San Francisco that no otherwise qualified blind person shall be discriminated against in examination, re-examination, appointment, reappointment, waiver of eligibility for appointment or reappointment, promotion or demotion in any class, subclass or position in the civil service unless eyesight is indispensible for the performance of the duties and responsibilities of the class, subclass or position. It shall be the duty of the commission to classify, and from time to time it may reclassify, places of employment in the civil service the duties of which may be efficiently performed by qualified blind persons and to conduct appropriate examinations which will fairly test the capacity of blind persons as well as sighted persons to perform such duties.

8.311 Prohibition of Political Activity

Active participation in city and county politics, relative to the election or appointment of public officials, by civil service employees and eligibles of the city and county, is subversive of the best interests of the merit system and, therefore, persons holding positions in the classified civil service or on eligible lists for such positions shall take no active part in such political campaigns, or in soliciting votes, or in levying, contributing or soliciting funds or support, in each case for

the purpose of favoring or hindering the appointment or election of candidates for city and county offices. Violation of the provisions of this section shall be deemed an act of insubordination and considered good cause for suspension or dismissal from position or removal from eligible list.

Part Three: Examination and Appointment

8.320 Qualifications of Applicants

(a) Any citizen having the qualifications prescribed by section 8.100 of this charter may submit himself for any examination under conditions established by the civil service commission. Provided, however, applicants for positions as motorman, conductor or bus operator on the municipal railway need not be residents of the city and county at the time of application, examination or appointment, but must become residents within the meaning of section 8.100 within a reasonable time, not to exceed six months, after completion of the probationary period provided in section 8.340.

(b) Applicants for entrance positions in the uniformed force of the fire department shall not be less than nineteen years of age at the time of taking the examination, nor less than twenty years of age or more than thirty-two years of age at the time of appointment and shall have the physical qualifications required for enlistment in the United States Army, Navy and Marine Corps.

(c) Applicants for entrance positions in the uniformed force of the police department shall not be less than twenty years of age at the time of taking the examination, nor less than twenty-one years of age or more than thirty-five years of age at the time of appointment and shall have the physical qualifications required for enlistment in the United States Army, Navy and Marine Corps.

(d) The commission shall advertise in the official paper the time, place and general scope of all examinations for entrance into the public service and may take further appropriate means to interest suitable applicants. When examinations for promotion are to be held, the commission shall give notice thereof to all persons in positions entitling them under the civil service rules, to participate in such examination, by posting information thereof in the office of the commission for a period of ten days and notifying the office, agency, or department concerned.

8.321 Examination of Applicants

All applicants for places in the classified service shall submit to tests which shall be competitive provided, however, that no test in either entrance or promotional examinations shall be deemed to be competitive unless two or more persons shall participate, except that

any such examination may be held for one qualified applicant on recommendation of the civil service commission and approval by resolution of the board of supervisors, after a finding by the board that reasonable publicity of the proposed examination has been given by the civil service commission. Such tests shall be without charge to the applicants. The commission shall control all examinations and may employ suitable persons in or out of the public service to act as examiners. The tests may be written, oral, mechanical or physical, or any combination of them, practical in character and related to matters fairly to test the relative capacity of the applicants for the positions to be filled. The commission shall be the sole judge of the adequacy of the tests to rate the capacity of the applicants to perform service for the city and county. The commission may, for each examination, establish a passing mark or may determine the total number of persons who shall constitute the list of eligibles. The commission shall prepare from the returns of the examiners the list of eligibles, arranged in order of relative excellence. No question submitted to applicants shall refer to political or religious opinions or fraternal affiliations.

Applicants for positions in the mechanical trades and occupations may, in the discretion of the commission, be rated solely on experience and physical qualifications which may be demonstrated by such evidence and in such manner as the commission may direct, and such applicants may be submitted to such further tests as the commission may require. Examinations of laborers shall relate only to physical qualifications and experience, and laborers establishing their fitness shall rank upon the register in order of priority application.

8.322 Protest of Written Questions and Answers

After the written portion of a civil service examination has been held, and prior to the scoring thereof, the questions used and the answers thereto shall be made available for review by the participants. During the review period, participants shall have an opportunity to protest questions or answers they believe to be incorrect or improper, and for this purpose shall be permitted to bring to the place of review such written authorities as they may desire to assist them in the preparation of their protests. The written portion of the examination shall not be scored until all protested items have been acted on by the civil service commission and an official rating key has been adopted. After the official rating key has been adopted, the examination papers have been scored and the identification sheets of the participants have been opened so that the identity of the participant is known, the civil service commission shall not make any changes in the examination questions or answers.

8.323 Protest of Tentative List of Eligibles

After the civil service commission has prepared and posted a tentative list of eligibles, arranged in order of relative excellence, as the result of any examination held by said commission, all examination papers, questions and answers, and all marks and grades given on any test given in said examination shall be open to public inspection, provided that the identity of the examiner giving any mark or grade in an oral test shall not be disclosed; and provided further that the commission may require the payment of a fee of not more than one dollar ($1.) for the inspection of all of the papers relating to the examination of any one person participating in said examination; and provided further that a participant may examine his own examination papers without charge. The civil service commission shall have power to correct any error which in its judgment may have occurred in the rating of any participant in said examination, and to alter said posted tentative list of eligibles and to make changes accordingly therein. The civil service commission shall provide for a reasonable period of time for such inspection, but not less than three (3) working days for entrance examinations nor less than five (5) working days for promotive examinations nor more than two (2) calendar weeks for either entrance or promotive examinations. If no protests are received during the time limits provided by the civil service commission for such inspection, the tentative list of eligibles shall be given immediate final approval and adoption. If any protests are filed within the inspection period provided by the civil service commission, the investigation and action on such protests shall be expedited to the end that final approval and adoption of the eligible list may be made at the earliest possible time, provided that in no event shall such final approval and adoption be delayed beyond sixty (60) days after the date of posting of the tentative list of eligibles.

The civil service commission by rules shall establish procedures for the review of written tests and the inspection of examination papers, as herein provided, for the maintenance of the security of examination material and for the protection of the public interest.

8.324 Veterans Preference in Examinations

Veterans with thirty days or more actual service, and widows of such veterans, who become eligible for appointment by attaining the passing mark in any entrance examination, shall be allowed an additional credit of five percent in making up the list of eligibles secured by such examination. The term "veteran" as used in this section shall be taken to mean any person who has been mustered into, or served in, the Army, or enlisted in, or served in, the Navy or

Marine Corps, of the United States, in time of war and received an honorable discharge or certificate of honorable active service. In the case of promotive examinations, when the passing mark has been attained, a credit of three percent shall be allowed to veterans or to widows of such veterans, when requested by such veterans or widows. When an eligible has secured a permanent appointment from a list of eligibles derived from an entrance examination in which he has been allowed additional credits of five percent as herein provided, and has served the full probationary period therein as provided in this charter, such other additional credits of five percent that have been allowed him on the list of eligibles derived from other entrance examinations shall be automatically cancelled, and his rank on such other list or lists revised to accord with his relative standing before such additional credits were added and he shall not be allowed such additional credits in any other entrance examinations. If he has received a permanent appointment from a list of eligibles derived from a promotive examination in which he has requested and been allowed the additional credits of three percent as herein provided, and has served the full probationary period therein as provided in this charter, such additional credits of three percent that have been allowed him on the lists of eligibles derived from other promotive examinations shall be automatically cancelled, and his rank on such other list or lists revised to accord with his relative standing before such additional credits were added, and he shall not be allowed such additional credits in any other promotive examinations. The civil service commission may, for services or employment specified by the commission, allow general or individual preference, but not less than ten percent, for entrance appointment of veterans who have suffered permanent disability in the line of duty, provided that such disability would not prevent the proper performance of the duties required under such service, or employment, and provided that such disability is of record in the United States Veterans' Bureau.

In the administration hereafter of the provisions of section 8.320 (b) and (c), and this section, of this charter, the terms Army, Navy or Marine Corps of the United States shall be deemed to include the Army, the Air Corps, the Navy, the Marine Corps, and the Coast Guard of the United States, and for the purposes of determining whether any person was mustered into, or served in, the Army, the Air Corps, the Navy, the Marine Corps, or the Coast Guard of the United States, in time of war, the expression, time of war, shall include the following periods of time:

(a) The period of time from the commencement of a war as shown by any declaration of war of the Congress of the United States, or by any statute or resolution of the Congress a purpose of

which is to declare in any manner the existence of a state of war, until the time of termination thereof by any truce, treaty of peace, cessation of hostilities, or otherwise.

(b) The period of time during which the United States is or has been engaged in active military operations against any foreign power, whether or not war has been formally declared.

(c) The period of time during which the United States is or has been assisting the United Nations or any nation or nations in accordance with existing treaty obligations, in active military operations against any foreign power, whether or not war has been formally declared.

(d) The period of time during which the United States is engaged in a campaign or expedition in which a medal has been authorized by the government of the United States; provided, however, that no person shall be eligible for the benefits provided for veterans in this section unless he shall have been eligible to receive such a medal.

8.325 Aid, Hindrance, Fraud and Collusion in Examinations

No person or officer shall, by himself or in cooperation with other persons, defeat, deceive or obstruct any person in respect to his or her right of examination; or falsely mark, grade, estimate or report upon the examination or proper standing of any person examined hereunder, or aid in so doing; or make any false representations concerning the same, or concerning the person examined; or furnish to any person any special or secret information for the purpose of either improving or injuring the prospects or chances of any person of being appointed, employed or promoted.

Any eligible securing standing on a list by fraud, concealment of fact or violation of commission rules shall be removed from such list and if certified or assigned to a position shall be removed therefrom.

8.326 Promotions in General

Except as specifically provided for in section 8.327, whenever it deems it to be practicable, the civil service commission shall provide for promotion in the service on the basis of such examinations and tests as the commission may deem appropriate, and shall, in addition, give consideration to ascertained merit and records of city and county service of applicants. The commission shall announce in the examination scope circular the next lower rank or ranks from which the promotion will be made.

8.327 Promotions in Uniformed Forces of Police and Fire Departments

(a) Except as specifically provided in other sections of this charter, all promotions in the uniformed forces of the police and fire departments, respectively, shall be made from the next lower civil service rank attained by examinations, as herein set forth, giving consideration also to meritorious public service and seniority of service and a clean record in the respective departments, and all promotive examinations in said departments shall be entirely of a written character and all questions asked or problems given in said examinations shall pertain to matters concerning the duties of the position or rank for which the examination is held.

The civil service commission shall provide for promotion in the police department on the basis of examinations and tests as hereinabove set forth at least once every four years for each promotive position or rank in the police department and questions asked or problems given in said examination shall be related to material taken from a bibliography promulgated within the police department from time to time by the police commission which will be prepared in consultation with the civil service commission; provided, however, that any such bibliography shall be promulgated within the police department not less than six months prior to the date of any promotive examination within the police department.

(b) Fifteen per cent of the total credits obtainable under any promotive examination for eligibles for the police or fire department shall be allowed for seniority of service, which said credits shall be distributed as follows:

Examinations for Eligibles for the Police Department

(1) For Promotion to the Rank of Sergeant of Police:

One per cent of the total credits allowed for the entire examination shall be allowed for each year of service in the department until a total of fifteen per cent of the credits of the entire examination is reached;

(2) For Promotion to the Rank of Lieutenant of Police:

Six-tenths of one per cent of the total credits allowed for the entire examination shall be allowed for each year of service in the department until a total of nine per cent of said total credits of the entire examination is reached, and in addition thereto six-tenths of one per cent of the total credits allowed for the entire examination shall be allowed for each year of service in the rank of corporal or sergeant until a total of six per cent of the credits of the entire examination is reached.

(3) For Promotion to the Rank of Captain of Police:

Forty-five hundredths of one percent of the total credits allowed for the entire examination shall be allowed for each year of service in the department until a total of nine per cent of said total credits for said examination is reached, and in addition thereto six-tenths of one per cent of the total credits allowed for the entire examination shall be allowed for each year of service in the rank of lieutenant until a total of six per cent of the credits of the entire examination is reached.

(4) In addition to the foregoing credits for seniority, six per cent of the total credits allowed for said examination shall be allowed each applicant for a clean record in the department. All members of the department who have performed acts of meritorious public service and have not heretofore received credit for such meritorious public service in a promotional examination and all members of the department who shall perform acts of meritorious public service prior to March 5, 1954, shall be allowed in addition to a maximum for four credits for said examination according to the judgment of the commission. Credits for meritorious public service, in a promotional examination within the police department shall not be allowed by the civil service commission except as herein provided.

Examination for Eligibles for the Fire Department

Fifteen per cent of the total credits allowed for any promotive examination shall be allowed for seniority of service, which said credits shall be distributed as follows:

(5) For Promotion to the Rank of Lieutenant in the Fire Department:

One per cent of the total credits allowed for the entire examination shall be allowed for each year of service in the fire department until a maximum of fifteen per cent is reached;

(6) For Promotion to the Rank of Captain in the Fire Department:

Six-tenths of one per cent of the total credits allowed for the entire examination shall be allowed for each year of service in the fire department until a total of nine per cent is reached; and in addition thereto there shall be allowed six-tenths of one per cent of the total credits allowed for the entire examination for each year of service in the rank of lieutenant until a total of six per cent of the credits of the entire examination is reached.

(7) For Promotion to all Ranks Above Captain in the Fire Department:

Forty-five hundredths of one per cent of the total credits allowed for the entire examination shall be allowed for each year of service in the fire department until a total of nine per cent of said credits is reached, and in addition thereto there shall be allowed six-tenths of one per cent of the total credits allowed for the entire examination for each year of service as an officer in the rank held by the applicant at the time of the examination, until a total of six per cent of the credits of the entire examination is reached.

(8) In addition to the foregoing credits for seniority six per cent of the total credits allowed for said examinations shall be allowed to each applicant for a clean record in the department.

(9) In promotional examinations in the police and fire departments, seniority of service and a clean record in the respective departments shall be added to the credit obtained by the applicant in the written portion of said examination, and shall be taken into consideration by the commission in determining his passing mark and his place upon the list of eligibles.

(10) In computing the credits for service in both the police department and the fire department, fractional parts of the year shall not be considered.

Vacancies occuring in the several ranks of captain, bureau of fire prevention and public safety; lieutenant, bureau of fire prevention and public safety; lieutenant, bureau of fire investigation; inspector, bureau of fire prevention and public safety; and investigator, bureau of fire investigation shall be subject to competitive examination, and the provisions of section 8.326 and subsection (a) and (b) of this section of the charter relating to the fire department shall apply except as otherwise provided herein. Personnel of the fire department eligible to participate in examinations for the rank of captain, bureau of fire prevention and public safety, shall come from the ranks of lieutenant, bureau of fire prevention and public safety, and lieutenant, bureau of fire investigation. Personnel of the fire department eligible to participate in examinations for the rank of lieutenant, bureau of fire prevention and public safety, and lieutenant, bureau of fire investigation, shall come from the ranks of inspector, bureau of fire prevention and public safety, and investigator, bureau of fire investigation. Personnel of the fire department eligible to participate in examinations for the rank of inspector, bureau of fire prevention and public safety, and investigator, bureau of fire investigation, shall come from the ranks of hoseman, truckman and chief's operator. Officers and members of the bureau of fire prevention and public safety and officers and members of the bureau of fire investigation are not eligible to participate in promotional examina-

tions for the ranks other than those ranks provided for the bureau of fire prevention and public safety and bureau of fire investigation.

Fifteen per cent of the total credits allowed for any promotive examination shall be allowed for seniority of service, which credits shall be distributed as follows:

(a) For promotion to the rank of inspector, bureau of fire prevention and public safety, and investigator, bureau of fire investigation:

One per cent of the total credits allowed for the entire examination shall be allowed for each year of service in the fire department until the maximum of fifteen per cent is reached;

(b) For promotion to the rank of lieutenant, bureau of fire prevention and public safety, and lieutenant, bureau of fire investigation:

Six-tenths of one per cent of the total credits allowed for the entire examination shall be allowed for each year of service in the fire department until a total of nine per cent is reached; and in addition thereto there shall be allowed six-tenths of one per cent of the total credits allowed for the entire examination for each year of service in the rank of inspector, bureau of fire prevention and public safety, and investigator, bureau of fire investigation, until a total of six per cent of the credits of the entire examination is reached;

(c) For promotion to the rank of captain, bureau of fire prevention and public safety:

Six-tenths of one per cent of the total credits allowed for the entire examination shall be allowed for each year of service in the fire department until a total of nine per cent is reached; and in addition thereto there shall be allowed six-tenths of one per cent of the total credits allowed for the entire examination for each year of service in the ranks of lieutenant, bureau of fire prevention and public safety, and lieutenant, bureau of fire investigation, until a total of six per cent of the credits of the entire examination is reached.

The effective date of this section as amended herein shall be the first day of the month following ratification.

8.328 Promotional Examinations for Employees on Military Leave

Employees under permanent civil service appointment who, because of absence on duly authorized military leave after June 27, 1950, did not participate in a promotional examination held after June 27, 1950, and during time of war as defined in section 8.324 of this charter, and in which examination the employee would have been otherwise eligible to compete had the war not intervened, and which examination is hereinafter referred to as the original promo-

tional examination, shall after abridgment of military leave, have the right to participate in a similar promotional examination. Provided, that persons and employees who were on entrance or promotive eligible lists, shall, for the purpose of this amendment, be deemed to be appointees in their classifications from the time their names were reached for permanent certification while in the military service.

In order to qualify for participation in a similar promotional examination under the provisions of this section, such employee who desires to participate therein must make application in writing to the civil service commission within thirty days after the abridgment of his military leave, or within thirty days after the effective date of this amendment. Failure to file such written request to participate in a similar promotional examination as herein provided shall be deemed a waiver of all rights of the employee to participate in such similar promotional examination.

The civil service commission shall arrange to hold such similar promotional examination within a reasonable time after employees eligible to request participation in any such similar promotional examination under the provisions of this section have indicated their desire to so participate, or have waived their right to participate, as herein provided.

The civil service commission shall be the sole judge of the adequacy of such similar promotional examination. If the employee obtains in the similar promotional examination a score rating equal to or more than the minimum passing mark established by the civil service commission for inclusion on the list of eligibles resulting from the original promotional examination, his name shall thereupon be entered on the eligible list resulting from the original promotional examination in accordance with the relative excellence obtained by all the qualified participants in the original and similar promotional examinations. Such employees shall be eligible for appointment from such list of eligibles in accordance with civil service rules to any vacancy thereafter occurring, and subject to satisfactory completion of a probationary period as provided in section 8.340 of this charter for a period of four years after the date on which their name is entered on the eligible list and before eligibles procuring standing through examinations held subsequent to the original promotional examination.

If it is determined by the civil service commission that the name of such person would have been reached for permanent appointment from the list of eligibles established as a result of the original promotional examination during his term of military service had the name of such person appeared thereon, then such employee, upon appointment to a permanent position as herein provided, shall be

granted seniority in such appointment from the date his name would have been reached had his name appeared thereon, but such seniority shall be used only for the purpose of determining salary increments and calculating city and county service credits in other promotional examinations held subsequent to the similar promotional examination herein authorized. For all other purposes, seniority of service shall date from the date of appointment as a result of qualifying in the similar promotional examination as herein authorized.

Such employees who qualify for appointment as a result of a similar promotional examination as herein provided, and who are appointed to permanent positions, as herein provided, shall be permitted to participate in other promotional examinations for which they are otherwise eligible, while serving under probationary appointment in the position to which appointed as a result of the similar promotional examination, provided that certification from lists of eligibles established from such other examinations shall not be made until the employee has satisfactorily completed the aforesaid probationary appointment.

The civil service commission shall adopt rules to govern the administration of similar promotional examinations herein authorized, and appointments and other matters resulting therefrom.

8.329 Certification of Eligibles: Rule of One

Whenever a position controlled by the civil service provisions of this charter is to be filled, the appointing officer shall make a requisition to the civil service commission for a person to fill it. Thereupon, the commission shall certify to the appointing officer, the name and address of the person standing highest on the list of eligibles for such position. In case the position is promotive, the commission shall certify the name of the person standing highest on such list. In making such certification, sex shall be disregarded except when a statute, a rule of the commission or the appointing officer specifies sex.

From the requisition of the appointing officer or otherwise, the commission shall determine whether the position is, in character, temporary, seasonal or permanent, and shall notify the candidate in accordance therewith to the end that the candidate may have knowledge of the probable duration of employment. The commission shall provide for such waiver of temporary or seasonal employment as it may deem just to candidates.

8.330 Duration of Lists of Eligibles

The civil service commission may remove all names from the list of eligibles after they have remained thereon for more than two years

and all names thereon shall be removed at the expiration of four years. The commission may, however, provide in the scope-circular of any examination that the list of eligibles secured thereby shall automatically expire at a date not less than two or more than four years after the adoption of such list.

8.331 Limited Tenure Appointments

When in time of war declared by the Congress of the United States eligibles are not available for appointment from registers established through the regular examination procedure as provided under sections 8.320, 8.321, 8.324 and 8.330 hereof, the civil service commission may qualify applicants for wartime appointments to positions through informal and non-competitive tests. Such tests and appointments resulting therefrom shall be governed solely by the provisions of this section and by rule of the civil service commission adopted pursuant thereto and the tests shall be adequate in the judgment of the civil service commission to determine the capacity of applicants to perform the duties of the positions to be filled pending creation of lists of eligibles through the regular examination procedure as provided in sections 8.320, 8.321, 8.324 and 8.330 hereof. Appointments made under the provisions of this section shall be designated "limited tenure appointments" and may continue only until registers of eligibles are established through the regular examination procedure provided in sections 8.320, 8.321, 8.324 and 8.330 hereof but in no event to exceed six months beyond the cessation of hostilities. Limited tenure appointments may be terminated by the appointing officer at any time for lack of work or funds. Limited tenure appointments may be terminated by the appointing officer for good cause at any time with the approval of the civil service commission without reference to the procedures governing removals set forth in section 8.342 hereof. Persons serving under limited tenure appointments as in this section provided shall by reason of such service acquire no right or preference to permanent civil service status as defined elsewhere in this charter or by rule of the civil service commission which is conferred on persons completing probationary appointments made from lists of eligibles established through the regular examination procedures provided in sections 8.320, 8.321, 8.324 and 8.330 of the charter. Service after January 1, 1951, under limited tenure appointment, by platform employees of the municipal railway, shall not be included in the calculation of service of such employees for the purpose of determining assignments of runs when such assignments are made on the basis of seniority of service.

Non-civil service appointments in the absence of civil service eligibles as provided in sections 8.320, 8.321, 8.324 and 8.330 of this

charter shall not be authorized if applicants qualified for limited tenure appointments are available. The civil service commission shall make every effort consistent with current conditions to maintain adequate registers of eligibles established through the regular examination procedure provided in sections 8.320, 8.321, 8.324 and 8.330 hereof.

The civil service commission shall adopt rules to carry out the provisions of this section and to govern the administration of limited tenure appointments.

In time of national emergency declared by the President of the United States or by the Congress or while any act authorizing compulsory military service or training is in effect, the provisions of this section may also be made operative upon recommendation of the civil service commission and approval of the board of supervisors by ordinance enacted by two-thirds vote of the board. Authority for limited tenure appointments, if established pursuant to the authority of this paragraph, shall cease six months after repeal by the board of supervisors of the ordinance which authorized such appointments.

8.332 Temporary and Emergency Appointments

When no list of eligibles exists or no eligible is available on an existing list for a position in the class requisitioned by the appointing officer, and immediate service in the position is required by the appointing officer and another list exists which is deemed by the civil service commission to be suitable to provide temporarily the service desired, the commission shall certify for civil service temporary appointment an eligible from such list; if no such other list deemed by the commission to be suitable exists, the commission pursuant to its rules may authorize the appointing officer to make a non-civil service or emergency appointment thereto for a period not exceeding ninety working days. Such non-civil service or emergency appointment, however, shall cease prior to the expiration of such ninety working days at the time a civil service eligible reports for duty as provided in section 8.329 of the charter.

If a list of eligibles exists for the position requisitioned, but immediate service is deemed necessary by the appointing officer pending the time an eligible from such list is certified and reports for duty as provided in section 8.329 of the charter, the commission may authorize the appointing officer to make a non-civil service or emergency appointment thereto for a period not exceeding thirty working days. Such non-civil service or emergency appointment, however, shall cease prior to the expiration of such thirty working days at the time a civil service eligible reports for duty as provided in section 8.329 of this charter.

No person shall be compensated under any non-civil service or emergency appointment or appointments as authorized under the provisions of the foregoing paragraphs of this section for a period exceeding ninety working days in any fiscal or calendar year, and no claim or warrant therefor shall be approved, allowed or paid for any compensation in excess of such ninety working days in any fiscal or calendar year.

If no eligibles are available for appointment to a permanent position in the class requested by the appointing officer the commission shall immediately hold an examination and establish an eligible list for such position. If its annual appropriation is insufficient to meet the cost of said examination, it shall report to the mayor the estimated cost thereof, and the mayor shall request and the supervisors shall make supplemental appropriation therefor in the manner provided herein for supplemental appropriations.

8.333 Appointments During an Unemployment Emergency

Whenever the board of supervisors by a three-fourths vote of all its members shall declare that an unemployment emergency exists throughout the city and county because of extraordinary conditions due to unemployment, and shall fix the period during which such unemployment emergency shall be officially recognized, the civil service commission shall then have power to exempt from civil service examinations during such emergency period all places of employment that may be created by special appropriation to relieve such unemployment emergency; provided, that no action shall be taken under the provisions of this paragraph that will adversely affect the rights of civil service eligibles for employment in the usual temporary and permanent positions that are provided for in the annual salary ordinance. The civil service commission shall adopt special rules for the government of appointments to the emergency positions that may be created under the authority of this paragraph.

Part Four: Suspension and Dismissal

8.340 Dismissal During Probation Period

Any appointment to a position declared permanent by the civil service commission shall be on probation for a period of six months, provided that the probationary period for entrance positions in the uniform rank of the police and fire departments shall be for one year. At any time during the probationary period the appointing officer may terminate the appointment upon giving written notice of such termination to the employees and to the civil service commis-

sion specifying the reasons for such termination. Except in the case of uniformed members of the police and fire departments the civil service commission shall inquire into the circumstances. If the appointment resulted from an entrance examination the commission may declare such person dismissed or may return the name to the list of eligibles under such conditions for further appointment as the commission may deem just. If the appointment resulted from a promotional examination the employee shall have the right of appeal and hearing before the civil service commission. The commission shall render a decision within thirty days after receipt of the notice of termination and (a) may declare such person dismissed; or (b) order such person reinstated in his position without prejudice, and the commission may in its discretion order that the employee be paid salary from time of the termination of his appointment; or (c) order the return of such person to the position from which he was promoted. The decision of the commission shall be final. Immediately prior to the expiration of the probationary period the appointing officer shall report to the civil service commission as to the competence of the probationer for the position, and if competent, shall recommend permanent appointment.

The provisions of this section shall be effective on the first day of the month immediately following the date of ratification of this amendment by the State Legislature. *(Amended 1972)*

8.341 Dismissal for Cause

No person employed under the civil service provisions of this charter, exclusive of members of the police and fire departments as provided under section 8.343 hereof, in a position defined by the commission as "permanent" shall be removed or discharged except for cause, upon written charges, and after an opportunity to be heard in his own defense. Pending such hearing, the appointing officer may suspend the person so accused; but such suspension shall not be valid for more than thirty days, unless hearing upon the charges shall be delayed beyond such time by the act of the accused person. When charges are made, the appointing officer shall, in writing, notify the person accused of the time and place when the charges will be heard, by mailing such statement to his last known address. The appointing officer shall publicly hear and determine the charges, and may exonerate, suspend or dismiss the accused. If the employee is exonerated the appointing officer may, at his discretion, remit the suspension and may order payment of salary to the employee for the time under suspension, and the report of such suspension shall thereupon be expunged from the record of service of such employee. The civil service commission shall immediately be notified of the

charges when made, of the hearing, and of the finding thereon. The finding of the appointing officer shall be final, unless within thirty days therefrom the dismissed employee appeals to the civil service commission. The appeal and all proceedings shall be in writing and shall briefly state the grounds therefor. The civil service commission shall examine into the case and may require the appointing officer to furnish a record of the hearing and may require in writing any additional evidence it deems material, and may, thereupon, make such decision as it deems just. The order or decision of the commission upon such appeal shall be final and shall forthwith be enforced by the appointing officer. If the civil service commission shall reverse or alter the finding of the appointing officer it may, in its discretion, order that the employee affected be paid salary from the time of his discharge or suspension.

The civil service commission may hear and determine any charge filed by a citizen or by the authorized agents of the commission when the appointing officer neglects or refuses to act. Removal or discharge may be made for any of the following causes: incompetence, habitual intemperance, immoral conduct, insubordination, discourteous treatment of the public, dishonesty, inattention to duties, or engaging in prohibited political activities.

Nothing in this section shall limit or restrict rules adopted by the commission governing lay-offs or reduction in force.

8.342 Disciplinary Suspensions

The appointing officer may, for disciplinary purposes, suspend a subordinate for a period not exceeding thirty days; and suspension shall carry with it the loss of salary for the period of suspension. The suspended employee shall be notified in writing of the reason for such suspension, and if the suspension be for more than five days the employee shall, at his request, be given a hearing by the appointing officer. The decision of the appointing officer in all cases of suspension for disciplinary purposes shall be final.

8.343 Fine, Suspension and Dismissal in Police and Fire Departments

Members of the fire or the police department guilty of any offense or violation of the rules and regulations of their respective departments, shall be liable to be punished by reprimand, or by fine not exceeding one month's salary for any offense, or by suspension for not to exceed three months, or by dismissal, after trial and hearing by the commissioners of their respective departments; provided, however, that the chief of each respective department for disciplinary purposes may suspend a member for a period not to exceed ten

days for violation of the rules and regulations of his department. Any member so suspended shall have the right to appeal such suspension to the fire commission or to the police commission, as the case may be, and have a trial and hearing on such suspension. Written notice of appeal must be filed within 10 days after such suspension and the hearing of said appeal must be held within 30 days after the filing of said notice of appeal. If the commission shall reverse or alter the finding of the chief, it shall in the case of a reversal and in other cases it may in its discretion, order that the member affected be paid salary for the time of his suspension. In the event the chief should exercise such power of suspension, the member involved shall not be subject to any further disciplinary action for the same offense.

Subject to the foregoing members of either department shall not be subject to dismissal, nor to punishment for any breach of duty of misconduct, except for cause, nor until after a fair and impartial trial before the commissioners of their respective departments, upon a verified complaint filed with such commission setting forth specifically the acts complained of, and after such reasonable notice to them as to time and place of hearings as such commission may, by rule, prescribe. The accused shall be entitled, upon hearing, to appear personally and by counsel; to have a public trial; and to secure and enforce, free of expense, the attendance of all witnesses necessary for his defense.

8.344 Exoneration of Charges

If, as provided for in section 8.343 a member of the police department is suspended by the chief of police pending hearing before the police commission for charges filed against him and subsequently takes a leave of absence without pay pending his trial before the commission, and, if after such trial he is exonerated of the charges filed against him, the commission may, at its discretion, remit the suspension and leave of absence without pay and may order payment of salary to the member for the time under suspension and on leave of absence without pay, and the report of such suspension and leave of absence without pay shall thereupon be expunged from the record of service of such member.

Part Five: Transfers

8.350 Disability Transfers

(a) When a permanent civil service employee other than a member of the fire department and police department who has served not less than three (3) years in his position, has become incapable through advanced age, accident or other disability, of performing the duties

of his position, the civil service commission may, with the consent of the appointing officer or appointing officers involved, transfer him to a position within his capacities to perform, whether or not within the classification for which he qualified for appointment, but such position shall not be in a classification having a higher compensation schedule than the one from which he is transferred, and his compensation shall not thereafter be increased beyond the maximum salary for the classification to which such employee is transferred, nor in any event shall his salary be increased to equal the salary such employee would have received had he remained in his former position; provided, however, that a permanent employee, including any permanent member of the fire department and police department, who has become incapable of resuming his former position through disability incurred while on active service with the armed forces while on military leave may upon application after his discharge from military service be transferred under the provisions of this section, regardless of his length of service.

(b) Employees transferred under the provisions of this section may, upon recovery from the disability, and with the consent of the civil service commission, return to a vacancy in their former classification.

(c) Positions filled under the provisions of this section shall not be subject to salary standardization, but the salaries thereafter shall be fixed by the civil service commission within the limitations herein set forth, provided, however, that salaries of such employees who were transferred from or to positions the compensations for which are subject to section 8.403 hereof may be revised as of July 1st within the limitations herein set forth to reflect rates of pay adopted under the provisions of section 8.403 for the then ensuing fiscal year by appropriate amendment to the annual appropriation ordinance and annual salary ordinance but without reference or amendment to the annual budget. The civil service commission shall make rules to carry out the intent of this section and such rules shall govern all transfers made under the provisions of this section.

(d) Whenever any employee is transferred under the provisions of this section and has held such position for five (5) years, he shall be eligible to participate in any promotional examination in which his classification is designated as the next lower rank from which promotion will be made; provided that the disability of said employee is not of such nature as to interfere with the performance of the duties required in the promotive classification. The civil service commission shall make such determination after examination of the employee by a civil service examining physician.

(e) The salary of an employee who is promoted as the result of

participation in a promotional examination under the provisions of this section shall be fixed in accordance with the salary standardization provisions of this charter.

(f) Notwithstanding any of the provisions of subsections (a), (b), and (c) of this section or any other provisions of this charter, whenever any employee is transferred under the provisions of subsections (a), (b) or (c) of this section and has held such position for ten (10) years, the limitations imposed on his salary by those subsections shall terminate and his salary shall thereafter be fixed in accordance with the salary standardization provisions of this charter.

8.351 Automation Transfers

When, because of technological advances, automation, or the installation of new equipment a surplus of employees is created and a permanent civil service employee who has completed his probationary period is to be laid off, the civil service commission may transfer such employee to a position within his capacities to perform, whether or not within the classification for which he qualified for appointment. The civil service commission may administer any examinations which the commission deems advisable to test the capacity of such employee, and shall be the judge of the ability of the employee to perform the duties in the position to which transfer is to be made. The position to which transfer is to be made shall not be in a classification having a higher compensation schedule than the one from which he is transferred, and compensation in the position to which transferred shall be governed by the provisions of the salary standardization ordinance and the salary ordinance. Employees transferred under the provisions of this section may, with the approval of the civil service commission and the appointing officer involved, be returned to a vacancy in his former classification. The civil service commission shall adopt rules to carry out the intent of this section, and such rules shall govern all transfers made under the provisions of this section.

Part Six: Leaves of Absence

8.360 Civil Service Rules

Leaves of absence to officers and employees of the city and county shall be governed by rules established by the civil service commission.

8.361 Military and War Effort Leaves of Absence

Leaves of absence shall be granted to officers and employees of the City and County of San Francisco and non-certificated officers

and employees of the San Francisco Unified School District for service in the armed forces of the United States or the State of California or for service on ships operated by or for the United States government in time of war and for such time thereafter as may be provided by rule of the civil service commission, but not to exceed two (2) years after the proclamation of peace, except in case of disability incurred while in active service with the armed forces or the merchant marine when such disability shall extend beyond such period.

Whenever any officer or employee of the City and County of San Francisco, or any non-certificated officer or employee of the San Francisco Unified School District shall, by order of the government of the United States or by lawful order of any of its departments or officers, or by lawful order of the State of California, or any of its departments or officers, be directed in time of peace to report and serve in the armed forces of the United States, or in the armed forces of the State of California, said officer or employee shall be entitled to a leave of absence from his office or position during the time of such service and for a period not to exceed three (3) months after the expiration thereof. Officers and employees entering or being inducted into any of the services requiring military leave as provided in this section shall file with the civil service commission a copy of the orders necessitating such service prior to the effective date of the leave of absence. Leaves granted pursuant to the provisions of this and the preceding paragraph of this section shall be designated "military leaves."

The board of supervisors may, on the recommendation of the civil service commission, provide by ordinance that leaves of absence shall be granted to officers and employees during time of war or during any emergency declared by the President of the United States, for other service directly connected with the prosecution of the war or national defense or preparedness. Leaves granted under authority of ordinances enacted pursuant to the provisions of this paragraph shall be designated "war effort leaves."

In time of emergency declared by the President of the United States or by the Congress, or while any act authorizing compulsory military service or training is in effect, the board of supervisors, upon recommendation of the civil service commission, may provide by ordinance that subject to rules of the civil service commission leaves of absence shall be granted to officers and employees of the City and County of San Francisco and non-certificated officers and employees of the San Francisco Unified School District for sea duty as licensed officers aboard ships operated by or for the United States government.

Any officer or employee on military leave, who, prior to such leave, has been appointed to a permanent position in the city and county service, shall be entitled to resume such position at the expiration of his leave, and in determining and fixing rights, seniority, salary and otherwise, which have accrued and shall inure to the benefit of such officer or employee, the term of military leave shall be considered and accounted a part of his service under the city and county.

Persons serving in the armed forces of the United States or the State of California during time of war or during any emergency lawfully declared by the President of the United States, who have standing on an eligible list, shall retain their places thereon, and upon presenting an honorable discharge or certificate of honorable active service from such military service within the period of time and subject to the conditions as prescribed by rules of the civil service commission, shall be preferred for appointment for a period of four (4) years after the proclamation of peace or the termination of said emergency in the order of standing upon such register at the time of entering such military service and before candidates procuring standing through an examination held subsequent to the entrance of such eligibles into the military service. If while in said military service the names of such persons are reached for certification to permanent positions, appointments shall be made to serve until such persons in the military service shall present to the civil service commission an honorable discharge or certificate of honorable active service within the period of time and subject to the conditions as prescribed by rules of the civil service commission, but not more than one (1) year after the date of discharge of each such eligible, when they shall be certified and assume the duties of positions in said class and their certification to said position for all purposes of seniority shall be deemed to be the date when their names on such eligible lists were reached for certification, provided that each appointee to a position shall serve such probationary period as is required in section 8.340 of this charter, and provided that such employee while serving on such probation shall be permitted to participate in any promotive examination to which his classification is eligible but shall not be entitled to certification by virtue of such promotional examination prior to satisfactory completion of said probationary period and provided further that no such persons shall be certified to entrance positions in the uniformed ranks of the police and fire departments under this provision who are more than thirty-five (35) years of age unless the names of such persons were reached for certification to such positions before such persons reached said age.

Persons who participate in a regular written civil service examination and who by reason of their active services in the Army, Navy or Marine Corps are unable to complete all parts of the examination and who present their orders or other competent proof of service in the same manner as is required of eligibles, shall acquire standing on eligible lists in accordance with the relative excellence attained by participation in the part or parts of the examinations already completed; provided that upon presenting their honorable discharges or certificates of honorable active service within the time limits specified in this section covering eligibles, they must qualify in the remainder of the examinations. When qualified they shall be certified as of the date they would have been reached for certification in accordance with the relative excellence attained by their participation in the entire examination.

The civil service commission shall adopt rules to govern the administration of leaves as herein provided and to govern lay-offs occasioned by the return of officers, employees, or eligibles who have been appointed and granted leave or certified as provided in this section.

8.362 Leaves for American Red Cross Members

(a) Whenever any officer or employee of the City and County of San Francisco, or any non-certified employee of the Unified School District thereof, after the 8th day of December, 1941, and during the existence of the present war between the United States of America and the Axis Powers, has resigned from or relinquished his or her position under the government of the city and county, or under said Unified School District thereof, and within a period of sixty days thereafter has entered the service of the American Red Cross, as a social service worker, field director or assistant field director therein, said officer or employee after the termination of his or her service with said American Red Cross, and within the time limits prescribed by law for persons on military leave, shall be entitled to resume his or her position from which he or she resigned or which he or she relinquished, upon presentation of proof that said person did within sixty days after resigning from, or relinquishing, his or her position with the city and county, or with the Unified School District thereof, enter the service of the American Red Cross as a social service worker, field director or assistant field director. Service with the American Red Cross as a social service worker, field director or assistant field director, during the existing war shall be deemed to be service with the city and county insofar as seniority of service and compensation are concerned, and said person so serving with the said American Red Cross shall be deemed to be on military leave, and

shall be entitled to all the rights and privileges according to other officers and employees of said city and county who have been granted military leave to serve in the armed forces of the United States, or of the State of California.

The rights and privileges herein granted to former officers and employees serving as social service workers, field directors or assistant field directors with the American Red Cross shall cease at the expiration of two years after the end of the present war between the United States of America and the Axis Powers, provided, however, that any person who severs his or her connection with the American Red Cross, and who fails to seek reinstatment to his or her position with the city and county, or with the Unified School District, within the time limits prescribed for persons on military leaves as defined in section 8.361 of the charter and rules of the civil service commission, shall not be entitled to reinstatement.

(b) From and after January 16, 1945, military leave as provided in section 8.361 of this charter for those serving in the armed forces of the United States or of the State of California shall be granted for service with the American Red Cross as social service worker, field director or assistant field director.

8.363 Leaves Due to Illness or Disability

The civil service commission by rule shall provide for leaves of absence, due to illness or disability, which leave or leaves may be cumulative, if not used as authorized, provided that the accumulated unused period of sick leave shall not exceed six (6) months, regardless of length of service, and provided further that violation or abuse of the provisions of said rule and ordinance by any officer or employee shall be deemed an act of insubordination and inattention to duties.

The board of supervisors shall approve, amend or reject all amendments to the rules governing leaves of absence as proposed by the civil service commission; provided, that before making any amendment thereto the board of supervisors shall request the civil service commission to review and report on said proposed amendment.

Chapter Four: Compensation and Other Conditions of Employment

Part One: Wages and Salaries

8.400 General Rules for Establishing and Paying Compensation

(a) The board of supervisors shall have power and it shall be its

duty to fix by ordinance from time to time, as provided in section 8.401, all salaries, wages and compensations of every kind and nature, except pension or retirement allowances, for the positions, or places of employment, of all officers and employees of all departments, offices, boards and commissions of the city and county in all cases where such compensations are paid by the city and county.

(b) The board of supervisors shall have power by ordinance to provide the periods when salaries and wages earned shall be paid provided, that until such ordinance becomes effective, all wages and salaries shall be paid semi-monthly. No salary or wage shall be paid in advance. It shall be official misconduct for any officer or employee to present or approve a claim for full-time or continuous personal service other than in the manner provided by this charter.

(c) All personal services shall be paid by warrants on the basis of a claim, bill, timeroll or payroll approved by the head of the department or office employing such service. The claims, bills or payrolls, hereinafter designated as payrolls, for salaries, wages or compensation for personal services of all officers, assistants and employees of every class or description, without regard to the name or title by which they are known, for each department or office of the city and county shall be transmitted to the civil service commission before presentation to the controller.

(d) The secretary of the civil service commission shall verify that all persons whose names appear on payrolls have been legally appointed to or employed in positions legally established under this charter. In performing such verification said secretary may rely upon the results of electronic data processing. Said secretary shall direct his attention to exception reports produced by such processing; he shall approve or disapprove each item thereon and transmit said exception reports to the controller. The controller shall not draw his warrant for any claim for personal services, salary, wages or compensation which has been disapproved by the said secretary.

(e) For the purpose of the verification of claims, bills, timerolls, or payrolls, contractual services represented by teams or trucks hired by any principal executive or other officer of the city and county shall be considered in the same manner as personal service items and shall be included on payrolls as approved by said principal executive or other officers, and shall be subject to examination and approval by the secretary of the civil service commission and the controller in the same manner as payments for personal services.

(f) The salary, wage or other compensation fixed for each officer and employee in, or as provided by this charter, shall be in full compensation for all services rendered, and every officer and employee shall pay all fees and other moneys received by him, in the

municipal service and not duplicated elsewhere in private or other governmental organizations in this state, the commission shall recommend and the board of supervisors shall fix a compensation which shall be in accord with the wages paid in private employment or other governmental organizations in the state for the nearest comparable service and working conditions; and provided further that if the civil service commission determines on the basis of facts and data collected as hereinafter provided that the rates generally prevailing for a particular service in private employment or in other governmental organizations are inconsistent with the rates generally prevailing in private employment or other governmental organizations for services requiring generally comparable training and experience, the commission shall set forth these data in its official records and shall recommend and the board of supervisors shall fix a compensation for such service that shall be consistent with the compensations fixed by the board of supervisors for other services requiring generally comparable training and experience; and provided further that the minimum compensation fixed for full time employment subject to the civil service provisions of this charter shall be not less than one hundred and six dollars ($106) per month.

The proposed schedules of compensation or any amendments thereto shall be recommended by the civil service commission solely on the basis of facts and data obtained in a comprehensive investigation and survey concerning wages paid in private employment for like service and working conditions or in other governmental organizations in this state. The commission shall set forth in the official records of its proceedings all of the data thus obtained and on the basis of such data the commission shall set forth in its official records an order making its findings as to what is the generally prevailing rate of pay for each class of employment in the municipal service as herein provided, and shall recommend a rate of pay for each such classification in accordance therewith. The proposed schedules of compensation recommended by the civil service commission shall be transmitted to the board of supervisors, together with a compilation of a summary of the data obtained and considered by the civil service commission and a comparison showing existing schedules. Before being presented to the board of supervisors for consideration, the proposed schedules and a comparison with existing schedules shall be posted and otherwise publicized for a period of two weeks by the commission in a manner designed to give reasonable publicity thereof.

The board of supervisors may approve, amend or reject the schedule of compensations proposed by the civil service commission;

provided, that before making any amendment thereto the data considered by the board of supervisors as warranting such amendment shall be transmitted to the civil service commission for review and analysis and the commission shall make a report thereon to the board of supervisors, together with a report as to what other changes, and the cost thereof such proposed amendments would require to maintain an equitable relationship with other rates in such schedule.

The salaries and wages paid to employees whose compensations are subject to the provisions of this section shall be those fixed in the schedule of compensations adopted by the board of supervisors as herein provided and in accord with the provisions of the ordinance of the board of supervisors adopting the said schedule, and the compensations set forth in the budget estimates, and the annual salary ordinance and appropriations therefor shall be in accord therewith.

Not later than January 15th, 1944, and every five years thereafter and more often if in the judgment of the civil service commission or the board of supervisors economic conditions have changed to the extent that revision of existing schedules may be warranted in order to reflect current prevailing conditions, the civil service commission shall prepare and submit to the board of supervisors a schedule of compensations as in this section provided. A schedule of compensations or amendments thereto as provided herein which is adopted by the board of supervisors on or before April 1st of any year shall become effective at the beginning of the next succeeding fiscal year and a schedule of compensations or amendments thereto adopted by the board of supervisors after April 1st of any year shall not become effective until the beginning of the second succeeding fiscal year. The board of supervisors shall appropriate twelve thousand five hundred dollars ($12,500) to the civil service commission to be known as the salary survey fund and to be used exclusively for defraying the cost of surveys of wages in private employment and in other governmental jurisdictions and making reports and recommendations thereon and publication thereof as herein provided. No expenditures shall be made therefrom except on authorization of board of supervisors. In the event of the expenditure of any of said funds, the board of supervisors in the next succeeding annual budget shall appropriate a sum sufficient to reimburse said salary survey fund.

Where compensations for services commonly paid on an hourly or a per diem basis are established on a weekly, semi-monthly or monthly salary basis for city and county service, such salary shall be based on the prevailing hourly or per diem rate, where this can be established, and the application thereto of the normal or average hours or days of actual working time, in the city and county service, including an allowance for annual vacation.

8.402 Compensation of Teachers, Part-Time Employees and Certain Other Groups

Compensations of the teaching and other technical forces of the school department and employees of the Steinhart Aquarium and law library departments, construction employees engaged outside of the city and county, part-time employees, and inmate and institutional help receiving less than fifty dollars ($50) per month, shall be fixed by the department head in charge thereof, with the approval of the board or commission, if any, in charge of the department concerned and subject to the budget and appropriation provisions of this charter; provided that part-time employees shall be recorded as such by a principal executive, only with approval of the civil service commission and, when so recorded, shall be noted as part-time on payrolls, budget estimates, salary ordinance and similar documents.

8.403 Rates of Pay for Trades and Crafts

Whenever any groups or crafts establish a rate of pay for such groups or crafts through collective bargaining agreements with employers employing such groups or crafts, and such rate is recognized and paid throughout the industry and establishments employing such groups or crafts in San Francisco and the civil service commission shall certify that such rate is generally prevailing for such groups or crafts in private employment in San Francisco pursuant to collective bargaining agreements, the board of supervisors shall have the power and it shall be its duty to fix such rate of pay as the compensations for such groups and crafts engaged in the city and county service. The rate of pay so fixed by the board of supervisors shall be determined on the basis of rates of pay certified by the civil service commission on or prior to April 1st of each year and shall be effective July 1st following; provided, that the civil service commission shall review all such agreements as of July 1st of each year and certify to the board of supervisors on or before the second Monday of July any modifications in rates of pay established thereunder for such crafts or groups as herein provided. The board of supervisors shall thereupon revise the rates of pay for such crafts or groups accordingly and the said revised rates of pay so fixed shall be effective from July 1st of the fiscal year in which such revisions are determined.

Should the budget estimates of the several departments be filed with the controller or transmitted to the mayor before any such report of said civil service commission is received by the board of supervisors, the head of each department affected by such report may amend its budget estimate to comply with the provisions of such report.

Not later than the 25th day of July in each year the board of supervisors shall have power and it shall be its duty, subject to the fiscal provisions of the charter but, without reference or amendment to the annual budget, to amend the annual appropriation ordinance and the annual salary ordinance to include the provisions necessary for paying the rates of compensation fixed by the board of supervisors as in this section provided for the then current fiscal year.

8.404 Salaries and Benefits of Carmen

The wages, conditions and benefits of employment as provided for in this section of the various classifications of employment of platform employees and coach or bus operators of the municipal railway as compensation, shall be determined and fixed annually as follows:

(a) On or before the first Monday of August of each year, the civil service commission shall certify to the board of supervisors for each classification of employment the average of the two highest wage schedules in effect on July 1st of that year for comparable platform employees and coach or bus operators of other surface street railway and bus systems in the United States operated primarily within the municipalities having each a population of not less than 500,000 as determined by the then most recent census taken and published by the director of the census of the United States, and each such system normally employing not less than four hundred (400) platform employees or coach or bus operators, or platform employees, coach and bus operators.

(b) The board of supervisors shall thereupon fix a wage schedule for each classification of platform employees and coach and bus operators of the municipal railway which shall not be in excess of the average of the two highest wage schedules so certified by the civil service commission for each such classification.

(c) When, in addition to their usual duties, such employees are assigned duties as instructors of platform employees or coach or bus operators they shall receive twenty cents (20¢) per hour in addition to the rate of pay to which they are otherwise entitled under the wage schedule as herein provided.

(d) The rates of pay fixed for platform employees and coach and bus operators as herein provided shall be effective from July 1st of the year in which such rates of pay are certified by the civil service commission.

(e) The terms wage schedule and wage schedules wherever used in this section are hereby defined and intended to include only the maximum rate of pay provided in each such wage schedule.

(f) At the time the board of supervisors fixes the wage schedule as provided in (b) above, the board of supervisors may fix as conditions and benefits of employment other than wages as compensation for platform employees and coach or bus operators of the municipal railway, conditions and benefits not to exceed those conditions and benefits granted by collective bargaining agreements to the comparable platform employees and coach or bus operators of the two systems used for certification of the average of the two highest wage schedules by the civil service commission. The board of supervisors may establish such conditions and benefits notwithstanding other provisions or limitations of this charter, with the exception that such conditions and benefits shall not involve any change in the administration of, or benefits of the retirement system, health service system or vacation allowances as provided elsewhere in this charter. For all purposes of the retirement system as related to this section, the word "compensation" as used in section 8.529 of this charter shall mean the "wage schedules" as fixed in accordance with paragraphs (a) and (b) above, including those differentials established and paid as part of wages to platform employees and coach and bus operators of the municipal railway, but shall not include the value of those benefits paid into the fund established as herein provided. Provided that when in the two systems used for certification as provided above, vacation, retirement and health service benefits are greater than such similar benefits provided by this charter for platform employees, coach or bus operators of the municipal railway, then an amount not to exceed the difference of such benefits may be converted to dollar values and the amount equivalent to these dollar values shall be paid into a fund. The fund shall be established to receive and to administer said amounts representing the differences in values of the vacation, retirement and health service benefits, and to pay out benefits that shall be jointly determined by representatives of the city and county government and the representatives of the organized platform employees and coach and bus operators of the municipal railway. The civil service commission shall adopt rules for the establishment and general administration of the fund as herein provided. Such rules shall provide for a joint administration of the fund by representatives of the city and county government, which shall include representatives of the administrator of the agency responsible for the municipal railway and representatives of the organized platform employees, coach and bus operators of the municipal railway. Such rules may provide a procedure for final and binding arbitration of disputes which may arise between representatives of the city and county government and the representatives of the organized platform employees and coach and bus operators of

the municipal railway. Such rules shall provide that all investments of the fund shall be of the character legal for insurance companies in California. Such rules and any amendments thereto shall be effective upon approval by the board of supervisors by ordinance.

(g) Not later than the 25th day of August, the board of supervisors shall have the power and it shall be its duty, subject to the fiscal provisions of the charter but, without reference or amendment to the annual budget, to amend the annual appropriation ordinance and the annual salary ordinance as necessary to include the provisions for paying the rates of compensation and conditions and benefits other than wages fixed by the board of supervisors as in this section provided for platform employees and coach or bus operators for the then current fiscal year.

On recommendation of the civil service commission the board of supervisors shall establish a rate of pay for trainee platform men and bus or coach operators at a level reflecting the current labor market but below the basic hourly rate for motorman, conductor and bus operator.

8.405 Salaries of Uniformed Forces in the Police and Fire Departments

(a) Not later than the 15th day of February of each year, the civil service commission shall survey and certify to the board of supervisors rates of compensation paid police officers or patrolmen employed in the respective police departments in all cities of 100,000 population or over in the State of California, based upon the latest federal decennial census.

Not later than the 1st day of April of each year, the board of supervisors shall have power, and it shall be its duty, by ordinance, to fix rates of compensation for the members of the police department whose annual compensations are set forth in section 3.531 of this charter and said rates shall be in lieu of said annual compensations and shall be effective on the 1st day of July next following.

The rates of compensation, fixed in said ordinance,

(1) for the fourth year of service and thereafter for police officers, police patrol drivers and women protective officers shall not exceed the highest rate of compensation paid police officers or patrolmen in regular service in the cities included in the certified report of the civil service commission;

(2) for the first, second and third year of service for police officers, police patrol drivers and women protective officers shall include the same amount of adjustment as that used in fixing the rates of compensation for the fourth year of service for the same class;

(3) for said members of the police department other than police officers, police patrol drivers and women protective officers shall include the same per cent of adjustment as that established by said ordinance for police officers in the fourth year of service and

(4) shall be set at the dollar amount nearest the fractional amount which may result from percentage adjustment specified in this section, half dollars being taken to the next higher dollar amount.

The rates of compensation set forth in the budget estimates, the budget and the annual salary ordinance shall be those fixed by the board of supervisors as in this section provided and appropriations therefor shall be based thereon.

Not later than the 1st Monday of August of each year, the civil service commission shall survey and certify to the board of supervisors the rates of compensation paid police officers or patrolmen on the first day of August of that year in the cities hereinbefore referred to. The board of supervisors shall thereupon have the power by ordinance to revise all of the rates of compensation as in this section provided. Said revised rates shall be effective from the first day of July of the then current fiscal year.

If the board of supervisors revises said rates of compensation, then it shall, not later than the 25th day of August of the then current fiscal year, have the power, and it shall be its duty, subject to the fiscal provisions of the charter, but without reference or amendment to the annual budget, to amend the annual salary ordinance and the annual appropriation ordinance to include the provisions necessary for paying the rates of compensation fixed by the board of supervisors as in this section provided for the then current fiscal year.

The expression "rates of compensation," as used in this section in relation to said survey, is hereby declared to apply only to a basic amount of wages, with included range scales, and does not include such working benefits as might be set up by any other city by way of holidays, vacations, other permitted absences of any type whatsoever, overtime, night or split shift, or pay for specialized services within a classification or rank, or other premium pay differentials of any type whatsoever. The foregoing enumeration is not exclusive, but it is the intent of this section that nothing other than a basic amount of wages, with included range scales, is to be included within the meaning of "rates of compensation."

Working benefits and premium pay differential of any type shall be allowed or paid to members of the police department referred to herein only as is otherwise provided in this charter.

For all purposes of the retirement system, the expression "rates of compensation" as used in this section, shall mean "salary attached to the rank" as used in section 166 of the charter of 1932, as amended,

and, with the addition of fifteen dollars per month now provided in subsection (b) with respect to members assigned to two-wheel motorcycle traffic duty, shall also mean "compensation earnable" as used in section 8.549.

The term "police officers or patrolmen" as used in this section shall mean the persons employed in the police departments of said cities of 100,000 population or over or of the City and County of San Francisco, to perform substantially the duties being performed on the effective date of this section by police officers, police patrol drivers and women protective officers in the San Francisco Police Department.

In determining years of service necessary for a police officer, woman protective officer and police patrol driver to receive the annual compensation is provided for herein, service rendered prior to the effective date of this amendment shall be given full credit and allowed.

The absence of any police officer, woman protective officer, or police patrol driver on military leave, as defined by section 8.361 of this charter, shall be reckoned a part of his service under the city and county, for the purpose of computing years of service in gaining added compensation as provided for herein.

On the recommendation of the chief of police, the commission may reward any member of the department for heroic or meritoriuous conduct. The form or amount of said reward to be discretionary with the commission, but not to exceed one month's salary in any one instance.

If any member of the department appointed as an assistant inspector is a sergeant at the time of the appointment or is appointed a sergeant thereafter, he shall receive the rate of compensation attached to the rank of sergeant.

(b) Not later than the fifteenth day of February of each year the civil service commission shall survey, and certify to the board of supervisors, any additional rate of pay paid to members assigned to two-wheel motorcycle traffic duty in the respective police departments of all cities of 100,000 population or over in the State of California, based upon the latest decennial census.

Not later than the first day of April of each year the board of supervisors shall have power, and it shall be its duty by ordinance to fix the additional rate of pay for the members of the police department who are assigned to two-wheel motorcycle traffic duty, at a rate of pay not to exceed the highest rate of compensation paid to members assigned to two-wheel motorcycle traffic duties in the cities included in the certified report of the civil service commission.

Not later than the 1st Monday of August of each year the civil

service commission shall survey and certify to the board of supervisors any additional rate of pay to be paid to members assigned to two-wheel motorcycle traffic duty on the first day of August of that year in the cities hereinbefore referred to

The board of supervisors shall thereupon have the power by ordinance to revise the additional rate of pay as in the section provided. Said revised rates shall be effective from the first day of July of the then current fiscal year

If the board of supervisors revises said additional rate of pay then, it shall, not later than the 25th day of August of the then current fiscal year, have the power, and it shall be its duty, subject to the fiscal provisions of the charter, but without reference or amendment to the annual budget, to amend the annual salary ordinance and the annual appropriation ordinance to include the provisions necessary for paying the additional rate of pay for members assigned to two-wheel motorcycle traffic duty fixed by the board of supervisors as in this section provided for the then current fiscal year.

Said additional rate of pay shall be in addition to the rate of compensation provided for in subsection (a).

In no event shall the additional rate so fixed be less than $15.00 per month.

(c) Not later than the 15th day of February of each year, the civil service commission shall survey and certify to the board of supervisors rates of compensation paid firemen employed in the respective fire departments of all cities of 100,000 population or over in the State of California, based upon the latest federal decennial census.

Not later than the 1st day of April of each year, the board of supervisors shall have the power, and it shall be its duty, by ordinance, to fix rates of compensation for the members of the fire department whose annual compensations are set forth or otherwise provided in section 3.542 of this charter, and said rates shall be in lieu of said annual compensations and shall be effective on the 1st day of July next following.

The rates of compensation, fixed in said ordinance,

(1) for the fourth year of service and thereafter for firemen shall not exceed the highest rate of compensation paid firemen in regular service in the cities included in the certified report of the civil service commission;

(2) for the first, second and third year of service for firemen shall include the same amount of adjustment as that used in fixing rates of compensation for the fourth year of service for the same class;

(3) for said members of the fire department other than firemen shall include the same per cent of adjustment as that established by said ordinance for firemen in the fourth year of service; and

(4) shall be set at the dollar amount nearest the fractional amount which may result from percentage adjustment specified in this section, half dollars being taken to the next higher dollar amount.

The rates of compensation set forth in the budget estimates, the budget and the annual salary ordinance shall be those fixed by the board of supervisors as in this section provided and appropriations therefor shall be based thereon.

Not later than the 1st Monday of August each year, the civil service commission shall survey and certify to the board of supervisors the rates of compensation paid firemen on the first day of August of that year in the cities hereinbefore referred to. The board of supervisors shall thereupon have the power by ordinance to revise all of the rates of compensation as in this section provided. Said revised rates shall be effective from the first day of July of the then current fiscal year.

If the board of supervisors revises said rates of compensation, then it shall, not later than the 25th day of August of the then current fiscal year, have the power, and it shall be its duty, subject to the fiscal provisions of the charter, but without reference or amendment to the annual budget, to amend the annual salary ordinance and the annual appropriation ordinance to include the provisions necessary for paying the rates of compensation fixed by the board of supervisors as in this section provided for the then current fiscal year.

The expression "rates of compensation" as used in this section, in relation to said survey, is hereby declared to apply only to a basic amount of wages, with included range scales, and does not include such working benefits as might be set up by any other city by way of holidays, vacations, other permitted absences for any type whatsoever, overtime, night or split shift, or pay for specialized services within a classification or rank, or other premium pay differentials of any type whatsoever. The foregoing enumeration is not exclusive, but it is the intent of this section that nothing other than a basic amount of wages, with included range scales, is to be included within the meaning of "rates of compensation."

Working benefits and premium pay differentials of any type shall be allowed or paid to members of the fire department referred to herein only as is otherwise provided in this charter.

For all purposes of the retirement system, the expression "rates of compensation," as used in subsections (c) and (d) of this section shall mean "salary attached to the rank" as used in section 169 of the charter of 1932, as amended and "compensation earnable" as used in section 8.549.

The term "firemen" as used in this section shall mean the persons employed, in the fire departments of said cities of 100,000 popula-

tion or over or of the City and County of San Francisco, to perform substantially the duties being performed on the effective date of this section by drivers, stokers, tillermen, truckmen, or hosemen, in the San Francisco Fire Department.

The expression "members of the fire department" does not include members of the fire commission.

The absence of any officer or member of the fire department on military leave of absence, as defined by section 8.361 of this charter, shall be reckoned a part of his service under the city and county, for the purpose of computing years of service in gaining added compensation as provided in this charter.

On the recommendation of the chief of department, the commission may reward any officer or member of the department for heroic or meritorious conduct, the form or amount of said award to be discretionary with the fire commission, but not to exceed one month's salary in any one instance.

The rates of compensation for the ranks of captain, bureau of fire prevention and public safety, and lieutenant, bureau of fire prevention and public safety, and lieutenant, bureau of fire investigation, shall be thirteen per cent (13%) above the compensation established for the ranks of captain and lieutenant as provided for in this section. The rates of compensation for the ranks of inspector, bureau of fire prevention and public safety, and investigator, bureau of fire investigation, shall be ten per cent (10%) above the compensation established for the rank of chief's operator as provided for in this section. The rate of compensation shall be set at the dollar amount nearest the fractional amount which may result from percentage adjustment specified in this subsection, half dollars being taken to the next higher dollar amount.

(d) The rate of compensation fixed pursuant to the provisions of subsection (a) for police officers, police patrol drivers and women protective officers for the fourth year of service and thereafter and the rate of compensation fixed pursuant to the provisions of subsection (c) for firemen for the fourth year of service and thereafter shall be the same. Such rate shall not exceed the highest rate of compensation paid, whether it be paid to police officers, patrolmen or firemen, in the cities included in the certified report of the civil service commission submitted to the board of supervisors pursuant to the provisions of the aforesaid subsections of this section; provided, further, that the minimum rate of compensation attached to the rank of sergeant in the police department shall be equal to the rate of compensation attached to the rank of lieutenant in the fire department. *(Amended 1972)*

8.406 Salary Deductions

Whenever, in the judgment of the mayor and the board of supervisors, extraordinary economic conditions actually exist due to unemployment, fire, earthquake, flood or other calamity, which adversely affect the life, health and welfare of the citizens of the city and county or of any considerable portion thereof, the board of supervisors, by a three-fourths vote of all of its members, with the concurrence of the mayor, shall have power as follows, to-wit:

(1) To officially declare that a public emergency exists, and to fix the approximate anticipated time during which said emergency shall continue, provided that no such emergency shall be anticipated to continue beyond the end of the fiscal year during which the same is declared, unless such emergency be declared subsequent to the 1st day of January of said year, in which event the said emergency may be anticipated to continue until the end of the next succeeding fiscal year.

(2) To provide that while said emergency as declared shall continue to exist there shall be deducted from the gross salaries and compensations, exclusive of pension and retirement allowances, of each officer and employee of the City and County of San Francisco, including officers and employees of the board of education, not more than the respective amounts hereinafter set forth. Said deductions shall be made on the basis of the salary and compensation rate of said several officers and employees which were in effect during the calendar month immediately preceding the month during which said emergency was declared and not reduced by this section.

If said salary and compensation deductions are not reflected in the annual budget and appropriation ordinances, as set forth in subdivision 3 of this section, the amount of said deductions shall be used for the purpose of meeting or alleviating the emergency which has been declared, or to balance any deficiency existing in the general funds of the city arising by reason of the delinquency in the payment of taxes or other revenue as compared with the anticipated revenues over the same period. Provided that where salaries or compensations are paid out of bond funds, utility funds, or other trust funds, which are not provided from the revenues of the city, all deductions made shall revert to the respective funds from which said salaries or compensations are paid.

The maximum deductions from the salary or compensation of each officer or employee heretofore referred to shall be as follows, to-wit:

(a) From the salaries or compensation of officers or employees whose gross earnings exceed $100 per month and do not exceed

$120 per month, three (3) percent of the amount of the gross monthly earnings of each of said officers or employees.

(b) From the salaries or compensations of officers or employees whose gross earnings exceed the sum of $120 per month and do not exceed the sum of $150 per month, seven (7) percent of the gross monthly earnings of each of said officers or employees.

(c) From the salaries or compensations of officers or employees whose gross earnings exceed the sum of $150 per month, and do not exceed the sum of $185 per month, ten (10) percent of the gross monthly earnings of each of said officers or employees.

(d) From the salaries or compensations of all officers or employees whose gross earnings exceed the sum of $185 per month, and do not exceed the sum of $275 per month, twelve and one-half (12½) percent of the gross monthly earnings of each of said officers or employees.

(e) From the salaries or compensations of all officers or employees whose gross earnings exceed the sum of $275 per month, and do not exceed the sum of $600 per month, fifteen (15) percent of the gross monthly earnings of said officers or employees.

(f) From the salaries or compensations of all officers or employees whose gross earnings exceed the sum of $600 per month, and do not exceed the sum of $834 per month, eighteen (18) percent of the gross monthly earnings of each of said officers or employees.

(g) From the salaries or compensations of all officers or employees whose gross earnings exceed the sum of $834 per month, twenty (20) percent of the gross monthly earnings of each of said officers or employees.

(h) Provided, however, that no more than five and one-half (5½) percent of the gross monthly earnings of per diem employees whose compensations are fixed on the basis of a five-day week shall be deducted from the salaries or earnings of any such employee.

Said deductions shall be made from said earnings or compensations in monthly or semi-monthly installments according to the time at which said salaries or compensations are paid; provided that where the earnings of any officer or employee are on an hourly or per diem basis deductions based on his total earnings for the month shall be deducted from the installment of said earnings paid for the last half of the month.

(3) Should any such emergency declared as herein provided be anticipated to continue into the next fiscal year following the one during which said emergency has been declared, the controller and

the mayor in preparing or submitting their respective annual budget estimates shall base and estimate the net salaries and compensations to be paid at amounts not to exceed the said salaries and compensations as reduced by the above-mentioned percentages on the above-mentioned salary and compensation rates, and the annual appropriation and salary ordinance shall fix said net salaries and compensation accordingly. When any emergency is declared after the annual budget is prepared or adopted, or after the annual appropriation or salary ordinances are enacted, and before the annual tax rate is fixed as provided by law, said budget and said appropriation and salary ordinances may be revised or reenacted, so that the deductions herein authorized to be made may be reflected in the amount of the tax levy.

(4) All of such deductions, whether made after the passing of the annual budget appropriation and salary ordinance or included therein, shall be deemed as temporary deductions from the salaries and compensations of said officers and employees, and shall be continued only during the anticipated period for which said emergency has been declared.

(5) In making the deductions herein provided for, the value of board, room and laundry or other maintenance furnished by the city and county to any officer or employee, when the same is made a part of his compensation by the civil service commission, shall be added to the monetary salary or compensation paid to said employee, and the amount of deductions from said salary or compensation shall be based on said monetary salary plus the value of said board, room and laundry or other maintenance, provided that no deduction shall be made for quarters furnished to any officer or member of the fire department.

(6) During the period that any emergency shall exist after being so determined as hereinbefore provided, the controller, with the approval of the mayor and the board of supervisors, may reallocate any unencumbered balance, or any part thereof, to the credit of any department or office exclusive of moneys or appropriations made or required to be made to any bond, bond interest, bond redemption, pension, utility, or trust fund, so that the same shall be available to meet the necessities of said emergency, irrespective as to whether the amount allocated to said department or office is fixed by this charter or is the result of a tax provided by said charter to be levied for said department. Should the period during which said emergency is anticipated to exist extend beyond the end of the fiscal year in which the same was declared to exist, the mayor, with the approval of the board of supervisors, may reduce the amount of any mandatory appropriation provided to be allocated to any office or

department; or may reduce the amount of any tax provided by the charter to be levied for the support or maintenance of any department or office. Provided that no such deduction in appropriation, provided by this charter to be made to any department, or in the reallocation of funds, or reduction in the amount of said tax otherwise provided to be levied to produce funds for any department, shall be greater than is necessary to reflect the deductions in salaries provided in the section to be made by reason of said emergency.

The provisions of this section shall have precedence over conflicting provisions of this charter, but nothing herein contained shall adversely affect the rights of the officers and employees as set forth in section 8.400 (h) of the charter, during the period when no public emergency exists. Contributions by the city and county and by members of the San Francisco City and County Employees' Retirement System to, and benefits, pension payments and allowances under said retirement system, shall be calculated on the basis of gross salaries and compensations of such members in the same manner and amounts as if no deductions from said gross salaries and compensations were made under this section.

Should any emergency be declared pursuant to the provisions of this section, which, in the judgment of the board of supervisors, will necessitate deductions from the salaries of the officers and employees of the city and county, over and above the amounts herein provided for, the board of supervisors, by unanimous vote of all of its members, and with the approval of the mayor, may authorize a further deduction from the salaries and compensations of any of said officers and employees by increasing the maximum deductions in this section provided for, up to and including an amount not to exceed twenty-five (25) percent of said respective salaries or compensations as the same existed before any deduction by authority of this section.

Part Two: Expenses

8.410 Reimbursement of Expenses

Except in the discharge of routine duties, traveling and payment of expenses therefor shall be authorized only by ordinance; provided, that allowances therefor shall not exceed cost of transportation, including Pullman charges, if any, and a reasonable amount per diem for necessary expenses, which per diem shall be fixed annually by ordinance and shall be applicable to all officers and employees.

8.411 Payment for Repair or Replacement of Equipment

Notwithstanding the provisions of sections 8.400 (a) and (c) through (g), 8.401, 8.402, 8.403, 8.405 (a) and 8.405 (c), or any other provision of this charter, the board of supervisors may provide by ordinance for the payment of the costs of replacing or repairing equipment, property, or prostheses of any uniformed officer or employee of the police department, fire department, sheriff's office or municipal railway, such as, but not confined to eyeglasses, hearing aids, dentures, watches, or articles of clothing necessarily worn or carried by such employee when any such items are damaged in the line of duty without fault of the employee. If the items are damaged beyond repair, the actual value of such items may be paid. The value of such items shall be determined as of the time of the damage thereto.

The board by a three-fourths vote of all of its members may make similar provision in relation to any other officer or employee where it finds that the damage or loss was occasioned by unusual circumstances or the occurrence of an extraordinary event.

The board is authorized to enact any and all ordinances necessary to carry out the provisions of this section.

Part Three: Health Benefits

8.420 Establishment of and Membership in Health Service System

A health service system is hereby established as a department of the city and county government and shall be subject to sections 3.680 through 3.682 and 8.420 through 8.432 inclusive. Said system shall be administered by a board to be known as the health service board. The members of the system shall consist of all employees, which shall include officers of the city and county, of the San Francisco Unified School District, and of the Parking Authority of the City and County of San Francisco who are members of the retirement system. Any employee who adheres to the faith or teachings of any recognized religious sect, denomination or organization and, in accordance with its creed, tenets or principles, depends for healing upon prayers in the practice of religion shall be exempt from the system upon filing annually with the health service board an affidavit stating such adherence and dependence and disclaiming any benefits under the system. The health service board shall have the power to exempt any person whose annual compensation exceeds six thousand dollars ($6,000) and any person who otherwise has provided for adequate medical care.

8.421 Continuation of Existing Plans

The medical care plans in effect on the effective date hereof shall continue in force and effect until rescinded or superseded by a new plan or plans adopted by the health service board and approved by ordinance of the board of supervisors, adopted by three-fourths of its members.

8.422 Adoption of Plans

The board shall have power and it shall be its duty by a two-thirds vote of the entire membership of the health service board to adopt a plan or plans for rendering medical care to members of the system, or for the indemnification of the cost of said care, or for obtaining and carrying insurance against such costs or for such care.

Such plan or plans as may be adopted, shall not become effective until approved by ordinance of the board of supervisors, adopted by three-fourths of its members.

The board of supervisors shall secure an actuarial report of the costs and effect of any proposed change in the benefits of the health service system or rates of contribution before enacting an ordinance or before voting to submit any proposed charter amendment providing for such change.

8.423 Revision of Schedules and Compensation

In January of each year, or more often if it deems necessary, at public hearings, the health service board shall review and determine the adequacy of medical care provided for members of the system and the adequacy of fee schedules and the compensation paid for all services rendered and it may make such revisions therein as it deems equitable but such revisions shall not become effective until approved by ordinance of the board of supervisors adopted by three-fourths of its members.

8.424 Specificity Required

Each plan for medical care shall make detailed and specific provision for the benefits to be provided thereunder and for the rates of contribution required to support the plan.

8.425 Persons Covered

Each plan may make provision for the participation in the benefits of the system by the dependents of members, retired city and county employees, temporary city and county employees, such other dependents of deceased and retired city and county employees as the board of supervisors may authorize by ordinance, teachers and other

employees of the San Francisco Unified School District retired under the San Francisco City and County Employees' Retirement System and resigned employees of the city and county and resigned teachers and employees of the school district whose resignations occur after June 15, 1955, and within thirty days immediately prior to the date on which, but for their resignations, they would have become retired members of the said retirement system, on whose relinquishment of retirement allowances as permitted by the charter occurs after such date and resigned employees of the San Francisco Unified School District not otherwise included. A resigned employee or teacher is one whose employment has terminated other than by retirement, discharge or death or who has relinquished retirement allowances. The purpose of empowering the health service board to make provision for the participation in the benefits of the system to the aforementioned resigned teachers and employees of the San Francisco Unified School District is to enable them, subject to the health service board's exercise of its power, to participate in the benefits of the system after transferring to the State Teachers' Retirement System from the San Francisco City and County Employees' Retirement System. The purpose of empowering the health service board to make provision for participation in the benefits of the system by the aforementioned resigned employees of the city and county and other resigned employees of San Francisco Unified School District is to permit the health service board to have power to treat them the same as it treats resigned teachers and employees of the San Francisco Unified School District.

As used in this section, and for the purpose of this section, the terms "city and county employees" and "employees of the city and county" shall include officers and employees of the Parking Authority of the City and County of San Francisco.

8.426 Right of Selection

No member of the health service system shall be required to accept the services or medical supplies of any physician (physician includes physicians and surgeons, optometrists, dentists, chiropodists and osteopathic and chiropractic practitioners licensed by California State Law and within the scope of their practice as defined by California State Law), person licensed to treat human diseases without the use of drugs, nurse, pharmacist or hospital selected by the health service board, but, subject to rules and regulations of that board, every member shall have the right to select, of his own choice, any duly licensed physician, as defined herein, person licensed to treat human diseases without the use of drugs, nurse, pharmacist, hospital or other agency of medical care as herein

defined, who or which will render the required services pursuant to said rules and regulations, and the health service board shall make provision for the exercise of such choice; and is hereby expressly prohibited from entering into any exlusive contract for the rendering of said services.

Any duly licensed physician, as defined herein, person licensed to treat human diseases without the use of drugs, nurse, pharmacist, hospital or other agency of medical care shall have the right to furnish such services or medical supplies at uniform rates of compensation to be fixed by the health service board.

8.427 Effect of Other Charter Provisions

Except as otherwise specifically provided herein, all provisions of the charter shall be fully applicable to the health service board, the health service system and its medical director and employees in the same manner that they apply to other boards, commissions, and departments of the city and county.

8.428 Health Service System Fund

There is hereby created a health service system fund. The costs of the health service system shall be borne by the members of the system and retired persons, the City and County of San Francisco because of its members and retired persons and because of the members and retired persons of the Parking Authority of the City and County of San Francisco, and the San Francisco Unified School District because of its members and retired persons. A retired person as used in this paragraph means a former member of the health service system retired under the San Francisco City and County Employees' Retirement System.

The city and county and the school district shall each contribute to the health service system fund amounts sufficient for the following purposes, and subject to the following limitations;

(a) All funds necessary to efficiently administer the health service system.

(b) Matching contributions for the fiscal year commencing July 1, 1962, and each fiscal year thereafter, equal to the amounts contributed thereto by members of the system, provided; however, that the total amount contributed by the city and county and the school district to the health service system fund in each fiscal year, for this purpose, shall not exceed an amount equal to the tax yield that can be produced in each fiscal year by six cents in the tax rate on each one hundred dollars ($100.00) valuation of the real and tangible personal property assessed in and subject to taxation by the city and county and the school district.

(c) Monthly contributions required from retired members participating in the system shall be equal to the monthly contributions required from members in the system; provided, however, that for the fiscal year commencing July 1, 1962, and for each fiscal year thereafter, the city and county and the school district shall contribute funds sufficient to defray the difference in cost to the system in providing the same health coverage to retired members as is provided for active employee members thereof.

The city and county and the San Francisco Unified School District shall not contribute to the health service system fund any sums, except as hereinbefore set forth, on account of participation in the benefits of the system by members' dependents, retired persons' dependents, persons who retired and elected not to receive benefits from San Francisco City and County Employees' Retirement System and resigned employees and teachers defined in section 8.425.

It shall be the duty of the board of supervisors and of the board of education annually to appropriate to the health service system fund such amounts as are necessary to cover the obligation of the city and county and of the San Francisco Unified School District hereby imposed. Contributions to the health service system fund of the city and county and of the school district shall be charged against the general fund or the school, utility, bond or other special fund concerned.

8.429 Contributions to Fund

The health service board shall determine and certify to the controller the amount to be paid monthly by the members of the system to the health service system fund for the purposes of the system hereby created. The controller shall deduct said sums from the compensation of the members and shall deposit the same with the treasurer of the city and county to the credit of the health service system fund.

Such deductions shall not be deemed to be a reduction of compensation under any provision of this charter.

The health service board shall have control of the administration and investment of the health service system fund, provided that all investments shall be of the character legal for insurance companies in California. Disbursements from the fund shall be made only upon audit by the controller and the controller shall have and exercise the accounting and auditing powers over the health service system fund which are vested in him by this charter with respect to all other municipal boards, officers and commissions.

8.430 "Medical Care" Defined

The term "medical care" shall be defined by the health service board.

All acts performed and services rendered under the provisions of this section shall be performed in accordance with the provisions as to professional conduct prescribed by the statutes of the State of California regulating such professional conduct and services.

Medical care, as defined by the health service board, shall not be furnished or supplied to any member of the system by or in any of the public health and hospital facilities of the city and county, except that emergency medical and hospital care may be rendered to any member of the system in the usual course of emergency health service.

8.431 Limitation of Claims by Members

Except as herein provided, members of the system shall have and possess no claim or recourse against any of the funds of the municipality by virtue of the adoption or operation of any plan for rendering medical care, indemnifying costs of said care or carrying insurance against such costs, but except as herein provided, the claim and recourse of any such member shall be limited solely to the funds of the system. All expenses of the system shall be paid exclusively from the health service system fund, and, except as herein provided, the city and county and the San Francisco Unified School District shall not appropriate or contribute funds in any manner for the purposes of the system hereby established and provided.

8.432 Transition

The board of supervisors is authorized to enact by a vote of three-fourths of its members, any and all ordinances necessary to carry out the provisions of sections 8.420 to and including 8.432.

Any surplus or deficit existing in the health service fund on February 5, 1958, shall belong to or be the obligation of members, as the case may be, and the city and county and the San Francisco Unified School District shall neither receive payment nor credit nor shall it contribute to such fund on account of medical care rendered prior to such date.

Part Four: Vacations

8.440 Annual Vacations of Employees

(a) Every person employed in the city and county service shall be allowed a vacation with pay annually, as long as he continues in his employment, as follows:

(1) After one years' continuous service, ten working days.

(2) After five years' continuous service, fifteen working days.

(3) After fifteen years' continuous service, twenty working days.

(b) Employees may elect not to take their entire vacation in any one year and in such event may accumulate the days allowable and not taken for use at some future time, provided, however, that no employee may accumulate unused vacation allowance in excess of thirty working days regardless of length of service.

(c) In computing vacation pay, no employee shall be considered to work more than five days each week. Vacation pay for employees working less than a five day week shall be computed proportionately.

(d) If a holiday occurs during such employee's vacation, and the employee would as a matter of law have been entitled to said day as a regular day off, such holiday shall not be considered a day of vacation chargeable to the employee's vacation allowance.

(e) The time when vacations are to be taken shall be at the convenience of the principal executive, with due regard for seniority.

(f) An employee with one year or more of service who ceases to be employed by the city and county and who has neither received nor waived his current annual vacation allowance shall receive a pro-rata payment for all service performed since January 1 of the calendar year in which he ceases to be employed, together with an amount equivalent to any accumulated vacation allowances due him.

(g) The board of supervisors shall enact any and all ordinances necessary to administer, interpret and regulate the provisions of subsections (a) through (f) of this section.

(h) Every employee of the City and County of San Francisco whose rate of compensation is fixed pursuant to the provisions of section 8.403 and 8.404 of this charter shall be entitled to receive an annual vacation at the time, with the pay and of the duration specified in this section and no section of the charter nor any provision of any collective bargaining agreement nor any street railway or bus wage schedule shall be construed in any manner or for any purpose to increase, reduce or otherwise affect the time or duration of, or pay for, vacations provided by this section nor shall any employee be deemed to have any vacation rights other than or in excess of the vacation rights specified in this section.

(i) The vacation rights granted by this section, or contained in any collective bargaining agreements, or in any street railway or bus wage schedules, as any of said terms are referred to in sections 8.403 and 8.404 of this charter, shall in no way increase, reduce or otherwise affect or be deemed to affect the wage or pay rate or schedule determinations made pursuant to the provisions of said section 8.403 and 8.404.

Part Five: Hours and Tours of Duty

8.450 Municipal Railway

Persons employed as platform men or bus operators in the operating department of the municipal railway system shall be subject to the following conditions of employment: The basic hours of labor shall be eight hours, to be completed within ten consecutive hours, and there shall be two days off, consecutive where practicable, in each week. All labor performed in excess of eight hours in any one day, or after a spread of ten consecutive hours in any one day, or five days in any one week, shall be paid for at the rate of time and one-half.

Conductors and motormen may be assigned to duty as bus operators and while assigned to such duty they shall receive the compensation fixed for such service. Such assignment shall be governed by seniority of service, subject to a qualifying test by the railroad management as to competency and to state laws as to qualifications and licensing.

8.451 Police Department

(a) The word "member" or "members" as used in this section shall mean the members in the police department set forth in section 3.531 of this charter.

(b) The basic week of service for each member shall be forty hours and the annual compensation set forth in section 3.531 of this charter shall be based upon said basic week of service.

(c) Each member shall be entitled to at least two days off during each week, except as hereinafter provided.

(d) Whenever in the judgment of the chief of police public interest or necessity requires the services of any member to serve in excess of the basic week of service during any week, the chief of police may permit said service, and said member shall be compensated therefor or shall receive equivalent time credited to him in lieu thereof in accordance with this sub-section. For service performed in excess of the basic week, members shall be compensated on the basis of straight time in accordance with the ratio which said excess service

bears to the basic week of service and the annual compensation provided therefor in section 3.531 or in lieu thereof equivalent time off duty with pay.

(e) Nothing contained in this section shall be deemed to interfere with a vacation, as provided for in section 8.440 of this charter, or the normal days off per week; provided, however, that when in the judgment of the chief of police public interest or necessity requires the services of any member to serve on his vacation, or part thereof, or normal days off, the chief of police may permit said member to serve during said vacation, or part thereof, or normal days off, and he shall receive additional compensation for the period so served. Said additional compensation shall be computed on the basis of straight time in accordance with the ratio which said extra service performed bears to the basic week of service and the annual compensation provided therefor in section 3.531.

(f) Nothing in this section shall abridge or limit in any way the provisions of Section 301, Part 1, of the San Francisco Municipal Code, approving rule 32 of the civil service commission, insofar as sick leave and disability leaves for members are concerned.

(g) Whenever in the judgment of the police commission the efficient performance of police duty requires that one or more members of the police department should report for roll call, orders, and assignment, prior to going on duty, the said commission may designate a period not to exceed fifteen minutes in any one day for said reporting, and the said periods of fifteen minutes need not be compensated for in money or in time off with pay.

(h) Notwithstanding the provisions of any of the foregoing subsections , the members of the police department shall be entitled to the days declared to be holidays for employees whose compensations are fixed on a monthly basis in the schedules of compensations adopted by the board of supervisors pursuant to the provisions of section 8.401 of the charter as additional days off with pay. Members shall be compensated on the basis of straight time as herein computed or shall be granted equivalent time off duty with pay in the judgment of the police commission.

8.452 Fire Department

The chief of department shall recommend and the fire commission shall provide by rule for work schedules or tours of duty for the officers and members occupying the several ranks of the fire department; provided, however, that all tours of duty established for officers and members assigned to the fire fighting companies, including the salvage corps, shall start at eight o'clock A.M. No such officer or member shall be required to work more than one hundred

and twenty (120) hours in any fifteen-day period, nor shall any officer or member be required to work more than twenty-four consecutive hours except in case of a conflagration requiring the services of more than one-half of the force of the department. Officers and members may exchange watches with permission of the chief of department and time worked on such exchange of watches shall not be construed as time in violation of the limitation of 120 hours in any fifteen-day period nor twenty-four consecutive hours. Each such officer and each such member shall be entitled to at least one (1) day off duty during each week.

When, in the judgment of the fire commission, it is in the public interest that any such officer or member shall work on his day off and said officer or member consents to so work, he may at the direction of the chief of department work on said day off, and in addition to the regular compensation provided for said officer or member as set forth in this charter, said officer or member shall be entitled to be compensated at his regular rate of pay as provided for herein for said extra time served, or he shall be allowed the equivalent time off.

In any computation in the administration of the San Francisco City and County Employees' Retirement System in which the compensation, as defined in any provisions relating to the retirement system, is a factor, compensation for overtime provided for in this section shall be excluded, and no such overtime compensation shall be deemed as compensation for any purpose relating to such retirement provisions.

Officers and members of the uniformed force shall be entitled to the days declared to be holidays for employees whose compensations are fixed on a monthly basis in the schedule of compensations adopted by the board of supervisors, pursuant to the provisions of section 8.401 of the charter, as additional days off with pay. Officers or members required to perform service in said department on said days shall be compensated on the basis of straight time as herein computed or shall be granted equivalent time off duty with pay in the judgment of the fire commission.

For payroll purposes, that portion of each tour of duty which falls within each calendar day shall constitute a single tour of duty. The rate of compensation for the service performed by officers or members on a holiday or for service performed on an assigned day off, as in this charter provided, shall be calculated by dividing the annual rates of pay for each fiscal year by the number of single tours of duty as scheduled for the several ranks in the fire fighting companies in said fiscal year.

Chapter Five: Retirement Benefit

Part One: Existence of System; Membership

8.500 Retirement System for Officers and Employees

In order to continue in force provisions already existing for retirement and death benefits for officers and employees of the city and county, the San Francisco City and County Employee's Retirement System, hereinafter referred to as the retirement system or the system, is hereby continued. The enactment of section 3.670, 3.672 and sections 8.500 to 8.581, inclusive, of this charter is not intended to, and shall not in any way, alter or modify the rights, benefits, or obligations of any member or beneficiary of the retirement system or of the city and county with respect to that system as they exist at the time this charter becomes effective.

Ordinance provisions already existing with respect to the retirement system shall continue in force until amended or revoked by the board of supervisors as provided in this section. The board of supervisors is hereby empowered to enact, by a vote of three-fourths of its members, any and all ordinances necessary to carry into effect the provisions of section 3.670, 3.672, 8.500-8.504, and 8.506-8.581 of this charter; provided that the board of supervisors shall secure, through the retirement board, an actuarial report of the cost and effect of any proposed change in the benefits under the retirement system, before enacting an ordinance or before voting to submit any proposed charter amendment providing for such change.

8.501 Retirement of Elective Officers

Notwithstanding the provisions of section 8.500 of this charter, elective officers, except members of the board of supervisors and of boards and commissions, shall be members of the San Francisco City and County Employees' Retirement System and shall be subject to all of the conditions applying to other members thereof, except members of the fire and police departments, and except as herein otherwise provided. In the determination of contributions and benefits of any officer becoming a member of the retirement system by virtue of the provisions hereof, that part of the salary of such officer which exceeds one thousand dollars ($1,000) per month shall be excluded. Elective officers in office on January 7, 1947, and otherwise eligible to the provisions hereof shall have the option to become mebers of said retirement system to be exercised in writing on a form furnished by the retirement system and to be filed at the office of said system not later than ninety days after January 7, 1947.

Each such present and future elective officer may retire at his option but only after having attained the age of seventy years and only after having occupied such an elective office or having been otherwise employed in a position subject to membership in the retirement system for at least twenty years immediately preceding retirement, and may retire by filing written application therefor with the retirement board, and the mayor shall thereupon appoint a qualified person for the unexpired term of office remaining at the time of any such retirement. Such elective officer shall thereafter receive a retirement allowance equal to one-half of the compensation received by him at the time of retirement, provided that such allowance shall not exceed five hundred dollars ($500) per month. Contributions required to provide the portion of the benefits under this section not provided by the member's contribution shall be paid to the retirement system by the city and county.

8.502 Retirement of Elective Officers

Notwithstanding the provisions of section 8.501 of this charter, elective officers, except members of boards and commissions, shall be members of the San Francisco City and County Employees' Retirement System under section 8.509 instead of section 8.501; and, notwithstanding the provisions of subdivision (B) of section 8.509, elective officers who are members of the retirement system under section 8.509 shall be retired on the day following the end of the term of office in which the age of seventy years is attained. Contributions, with credited interest, standing to the credit of such individual officers shall be adjusted as of January 9, 1953, to the amount which they would have been if the contributions had been made in accordance with section 8.507 prior to July 1, 1947, and section 8.509 after June 30, 1947. Time during which said members have rendered service as elective officers shall be included under subsection (G) of section 8.509, in addition to other time now so included. Contributions required to provide benefits based on service rendered as an elective officer prior to the effective date of membership in the retirement system, shall be paid to the retirement system in the manner provided in section 8.509 for contributions for service rendered prior to the date upon which the member's rate of contribution is based. Elective officers in office on January 9, 1953, who are members of the retirement system under section 8.501 at such time, shall have the option to continue as members of the retirement system under section 8.501, instead of this section, to be exercised in writing on a form furnished by the retirement system and to be filed at the office of said system not later than ninety days after January 9, 1953.

8.503 Retirement—Court Employees and Attaches

Employees and attaches of the superior or municipal court, including persons performing duties performed under the titles of commissioners, phonographic reporters who are paid compensation on a monthly or per diem basis by the city and county, secretaries, stenographers, investigators, messengers and other employees of the superior and municipal courts, in and for the City and County of San Francisco, shall be members of the San Francisco City and County Employees' Retirement System under section 8.509, and shall be subject to all of the conditions applying to other members under that section, except as herein otherwise provided.

Service rendered to the said superior or municipal court in and for the city and county, other than as a phonographic reporter, by persons prior to becoming members under this section on February 1, 1953, shall be credited under the retirement system to such persons, provided that it would have qualified for credit when rendered, if said persons had been subject then, as they will be under this section, to the provisions of section 8.509 of this charter and of the ordinances and provisions of the Municipal Code of the City and County of San Francisco relating to retirement of members under said section.

Service rendered to said superior court on and after September 15, 1945, or to said municipal court on and after September 1, 1947, by phonographic reporters prior to becoming members under this section on February 1, 1953, shall be credited under this retirement system to such persons.

Said service, rendered prior to becoming a member under this section on February 1, 1953, shall only be credited to each of such persons if he elect, by written notice, on a form provided by retirement system, filed in the office of the retirement board of said system prior to July 1, 1953, to receive credit for all or any part of said service, and to pay into the retirement fund, at times and in the manner hereinafter provided, the following amounts: (1) an amount equal to the normal contributions he would have contributed, had he been a member of the retirement system under section 8.509, during the time for which he has elected to receive credit for service, on the basis of compensation paid to him by the city and county on account of said service, and (2) an amount equal to the interest which would have been credited to his account on account of such contributions from the date upon which they would have been made, to the date of payment of such contributions to the retirement system. However, a member shall not receive credit for any portion of such service rendered prior to April 1, 1922, unless he has elected

to receive credit for, and has paid into the retirement fund such amount with respect to, all of said service rendered after March 31, 1922. Such amounts shall be paid into the retirement fund by lump sum payment, or payroll deductions or other installments, over a period not exceeding thirty-six months from July 1, 1953, provided that any balance remaining unpaid at his retirement shall become due and payable forthwith. Benefits, not provided by such amounts, granted to said persons on account of said service rendered prior to February 1, 1953, shall be provided by contributions of the city and county. Such service shall include time during which such person was absent from a status included in the paragraph above by reason of service in the armed forces of the United States in any war in which the United States has engaged.

Notwithstanding the foregoing provisions, any such employee or attache not already a member of the system and who is such an employee or attache on February 1, 1953, shall not become a member of the retirement system, unless he elect prior to July 1, 1953, on a form provided by the retirement system, to be a member of said system, and if he does not so elect, he shall not be a member of the retirement system, and shall not be prevented from continuing in such employment by reason of such provision.

8.504 Retirement—Parking Authority Employees

Officers and employees of the Parking Authority of the city and county shall become members of the San Francisco City and County Employees' Retirement System under section 8.509 on February 1, 1963, and thereupon shall be subject to all conditions applying to other members under that section inclusive of the provisions of section 8.514 of the charter, except as herein otherwise provided; provided, however, that Members of such Authority are excluded from the San Francisco City and County Employees' Retirement System.

Service rendered to the said Parking Authority by persons prior to becoming members under this section on February 1, 1963, shall be credited under the Retirement System to such persons, subject to the terms and conditions provided herein. Said service shall only be credited to each of such persons if he elect, by written notice, on a form provided by the retirement system and filed in the office of the retirement board of said system prior to July 1, 1963, to receive credit for said service, and to pay into the retirement fund, at times and in the manner fixed by the Retirement Board, the following amounts: (1) an amount equal to the normal contributions he would have contributed, had he been a member of the retirement system under section 8.509, during the period in which said service was

rendered, on the basis of compensation paid to him by the city and county on account of said service and (2) an amount equal to the interest which would have been credited to his account on account of such contributions from the date upon which they would have been made, to the date of payment of such contributions to the retirement system; provided that any balance remaining unpaid at his retirement shall become due and payable forthwith. If any such person shall not so elect to receive credit for said service and to pay such amounts of contributions and interest, or having so elected, subsequently does not pay into the retirement fund such amounts at times and in the manner herein provided, and prior to February 1, 1963, he shall enter as a new member without credit for any of said service, any moneys theretofore received from him as payment on such amounts together with accumulated interest thereon shall be refunded to him, and the rate of his contribution shall be the normal rate provided in subsection (H) of section 8.509 at his age on February 1, 1963, otherwise his rate of contributions shall be the rate provided in said subsection (H) of section 9.509 based on his age at the earliest date in the period for which said service is credited. Benefits, not provided by such amounts, granted to said persons on account of said service rendered prior to the effective date of membership under this section, shall be provided by contributions of the city and county.

Notwithstanding the foregoing provisions, any such officer or employee not already a member of the system and who is such an officer or employee on February 1, 1963, shall not become a member of the retirement system, unless he elects to be a member of said system, in writing, on a form provided by the retirement system and filed in the office of the retirement system prior to July 1, 1963; if he does not so elect he shall not be a member of the retirement system, and shall not be prevented from continuing in such employment by reason of the provisions of this section.

8.505 Retirement–Port Authority Employees

All employees of the Port Authority who, on February 7, 1969, are members of the Public Employees' Retirement System of the State of California shall continue to be members of said Public Employees' Retirement System, with all the rights, privileges and benefits of said system and they shall not be members of the San Francisco City and County Employees' Retirement System; and, notwithstanding any other provisions of this charter, the city and county shall perform all acts necessary to continue the membership of such employees in said Public Employees' Retirement System.

All employees of the Port Authority who, at the time the transfer

provided for herein shall go into effect, are covered under the provisions of a retirement program other than the Public Employees' Retirement System of the State of California shall thereafter continue to be covered under such retirement program and they shall not be members of the San Francisco City and County Employees' Retirement System; and, notwithstanding any other provisions of this charter, the city and county shall perform all acts necessary to continue the coverage of such employees under such retirement program.

Persons who, after February 7, 1969, become employees of the city and county in positions related to the operation of the State Belt Railroad and who become covered under the provisions of the Railroad Retirement Act by virtue of their employment in such positions shall not be members of the San Francisco City and County Employees' Retirement System.

8.506 Sheriff's Department

Notwithstanding any other provisions of this Charter, the board of supervisors shall have the power to contract with the Board of Administration of the Public Employees' Retirement System of the State of California to provide that the sheriff, undersheriff and all deputized personnel of the sheriff's department shall be members of the public employees' retirement system, and the board of supervisors and the retirement board shall have the power to perform all acts necessary to carry out the terms and purposes of such contract.

Any person who shall become a member of the public employees' retirement system pursuant to such contract shall have the right to be a member of the health service system and the health service board shall make provisions for participation in the benefits of the health service system by such persons.

8.506-1 Teachers in the San Francisco Unified School District and San Francisco Community College District

Notwithstanding any other provisions of this charter, the board of supervisors shall have the power to perform any and all acts necessary or appropriate to implement any provisions of the Education Code of the State of California which contemplate that teachers in the San Francisco Unified School District and the San Francisco Community College District shall not be members of the San Francisco City and County Employees' Retirement System but shall be members only of the State Teachers' Retirement System or which contemplate that such teachers may elect to be members of the State Teachers' Retirement System and not to be members of the San Francisco City and County Employees' Retirement System. *(Added 1972)*

8.507 Miscellaneous Officers and Employees on January 8, 1932

Persons who are officers and employees of this city and county on January 8, 1932, shall become members of the retirement system subject only to the following provisions, in addition to the provisions contained in sections 3.670, 3.672, 8.500, 8.510, 8.511, 8.520, 8.525 and 8.560, of this charter.

(a) The system shall be applied to such offices, departments, bureaus, or classes of officers or employees of the city and county, including teachers in the San Francisco school department, as the supervisors shall determine; provided, however, that the contributions to be made by said teachers and the benefits to be received by said teachers under said retirement system shall be based upon the proportion of salaries of said teachers which have been and shall be paid out of funds contributed by the city and county, excluding therefrom the portion of such salaries which have been or shall be paid out of funds contributed by the State of California; and in determining such proportion it shall be taken to be the same proportion which the whole amount of money contributed by the city and county to the common school fund in any fiscal year bears to the whole amount of money contributed to such fund in such year by the state and by the city and county; and provided, further, that nothing herein contained shall be construed to deprive any teacher of the right to receive benefits under any pension or retirement system now or hereafter established by the State of California.

(b) No member of the retirement system shall be retired, except in case of disability incapacitating him for the performance of his duties, unless he shall have attained the age of sixty-two years and completed ten years of continuous service, but retirement shall be compulsory at the age of seventy years. It may be provided, however, under such retirement system, that members may retire after thirty years of continuous service; the benefits at retirement in such cases to be determined, because of retirement at an age below sixty-two, in accordance with the tables recommended by the actuary and approved by said retirement board.

(c) All persons who were retired prior to October 1, 1925, from service as teachers in the public schools of San Francisco, under the provisions of the law of 1913, establishing the California Public School Teachers' Retirement Salary Fund, shall be entitled to and shall receive retirement allowances, to be calculated on the same basis as that established for determining the retirement allowances provided for members of the said retirement system.

8.508 Pacific Gas & Electric Company Employees

The board of supervisors shall have the power to provide by ordinance retirement benefits for persons who become employees of the City and County of San Francisco under any lease, or other temporary arrangement, entered into between said city and county and the Pacific Gas & Electric Company, and because of their employment by said company at the effective date of said lease, or other temporary arrangement. The effect of said ordinance shall be to provide essentially the same retirement benefits for said employees on account of service rendered under said lease, or other temporary arrangement, as if said persons had been employees of said company throughout the term of said lease.

The further effect of said ordinance shall be to provide for permanent retirement rights for said persons, in the event they become employees of said city and county upon purchase or other permanent acquisition of the properties of said company, essentially the same benefits on account of service rendered as employees of said city and county, as they would have received if they had been members throughout said service of the San Francisco City and County Employees' Retirement System on the same basis as other employees of said city and county, except members of fire or police departments.

8.509 Retirement–Miscellaneous Officers and Employees on and after July 1, 1947

Miscellaneous officers and employees, as defined in this section, who are members of the retirement system under this section of the charter on February 1, 1969, and persons who become miscellaneous officers and employees after February 1, 1969, shall be members of the retirement system, subject to the following provisions of this section, in addition to the provisions contained in sections 3.670, 3.672, 8.500, 8.510 and 8.520 of this charter notwithstanding the provisions of any other section of the charter, provided that the retirement system shall be applied to persons employed on a part-time temporary or substitute basis only as the board of supervisors shall determine by ordinance enacted by three-fourths vote of all members of the board. Miscellaneous officers and employees of the said departments who are members of the retirement system under section 8.507 of the charter on February 1, 1969, shall continue to be members of the system under section 8.507 and shall not be subject to any of the provisions of this section, except as specifically provided in this section.

(A) The following words and phrases as used in this section unless

a different meaning is plainly required by the context, shall have the following meaning:

"Retirement allowance," or "allowance," shall mean equal monthly payments, beginning to accrue upon the date of retirement, and continuing for life unless a different term of payment is definitely provided by the context.

"Compensation," as distinguished from benefits under the workmen's compensation laws of the State of California shall mean all remuneration whether in cash or by other allowances made by the city and county, for service qualifying for credit under this section.

"Compensation earnable" shall mean the compensation as determined by the retirement board, which would have been earned by the member had he worked, throughout the period under consideration, the average number of days ordinarily worked by persons in the same grade or class of positions as the positions held by him during such period and at the rate of pay attached to such positions, it being assumed that during any absence, he was in the position held by him at the beginning of the absence, and that prior to entering city-service he was in the position first held by him in city-service.

"Benefit" shall include "allowance," "retirement allowance," and "death benefit."

"Average final compensation" shall mean the average monthly compensation earned by a member during any five consecutive years of credited service in the retirement system in which his average final compensation is the highest, unless the board of supervisors shall otherwise provide by ordinance enacted by three-fourths vote of all members of the board.

For the purposes of the retirement system and of this section, the terms "miscellaneous officer or employee," or "member," as used in this section shall mean any officer or employee who is not a member of the fire or police departments as defined in the charter for the purpose of the retirement system, under section 8.507 of the charter.

"Retirement system" or "system" shall mean San Francisco City and County Employees' Retirement System as created in section 8.500 of the charter.

"Retirement board" shall mean "retirement board" as created in section 3.670 of the charter.

"Charter" shall mean the charter of the City and County of San Francisco.

Words used in the masculine gender shall include the feminine and neuter genders, and singular numbers shall include the plural and the plural the singular.

"Interest" shall mean interest at the rate adopted by the retirement board.

(B) Any member who completes at least twenty years of service in the aggregate credited in the retirement system and attains the age of fifty-five years, or at least ten years of service in the aggregate credited in the retirement system, and attains the age of sixty years, said service to be computed under subsection (G) hereof, may retire for service at his option. Members shall be retired on the first day of the month next following the attainment by them of the age of sixty-five years. A member retired after reaching the age of sixty years shall receive a service retirement allowance at the rate of 1-2/3 percent of said average final compensation for each year of service; provided, however, that upon the compulsory retirement of a member upon his attainment of the age of 65 years, if the allowance available to such member pursuant to the provisions of subsection (F) of this section shall be greater in amount than the service retirement allowance otherwise payable to such member under this subsection (B), then such member shall receive as his service retirement allowance, in lieu of the allowance otherwise payable under this subsection (B), an allowance computed in accordance with the formula provided in said subsection (F). The service retirement allowance of any member retiring prior to attaining the age of sixty years, after rendering twenty years or more of such service and having attained the age of fifty-five years, computed under subsection (G), shall be such as can be provided at the age of retirement by the actuarial value, at the age of retirement, of the retirement allowance to which he would be entitled upon retirement at age sixty and with the service credited at the date of actual retirement.

Before the first payment of a retirement allowance is made, a member retired under this subsection or subsection (C) of this section, may elect to receive the actuarial equivalent of his allowance, partly in an allowance to be received by him throughout his life, and partly in other benefits payable after his death to another person or persons, provided that such election shall be subject to all the conditions prescribed by the board of supervisors to govern similar elections by other members of the retirement system, including the character and amount, of such other benefits; provided, however, that at any time within 30 days after the date on which his compulsory retirement would otherwise have become effective, a member who has attained the age of 65 years may elect, without right of revocation, to withdraw his accumulated contributions, said election to be exercised in writing on a form furnished by the retirement system and filed at the office of said system and a member so electing shall be considered as having terminated his membership in said system on the date immediately preceding the date on which his compulsory retirement would otherwise have

become effective and he shall be paid forthwith his accumulated contributions, with interest credited thereon. Notwithstanding the provisions of section 8.514 of this charter, the portion of service retirement allowance provided by the city and county's contributions shall be not less than $100 per month upon retirement after thirty years of service and after attaining the age of sixty years, and provided further that as to any member with fifteen years or more of service at the compulsory retirement age of sixty-five, the portion of the service retirement allowance provided by the city and county's contribution shall be such that the total retirement allowance shall not be less than $100 per month. In the calculations under this subsection of the retirement allowance of a member having credit for service in a position in the evening schools and service in any other position, separate retirement allowances shall be calculated, in the manner prescribed for each class of service, the average final compensation in each case being that for the respective class of service; provided that the aggregate retirement allowance shall be taken into account in applying the provisions of this subsection providing for a minimum retirement allowance. Part time service and compensation shall be reduced to full time service and compensation in the manner prescribed by the board of supervisors, and when so reduced shall be applied on full time service and compensation in the calculation of retirement allowances.

(C) Any member who becomes incapacitated for performance of duty because of disability determined by the retirement board to be of extended and uncertain duration, and who shall have completed at least ten years of service credited in the retirement system in the aggregate, computed as provided in subsection (G) hereof, shall be retired upon an allowance of one and one-half percent of the average final compensation of said member, as defined in subsection (A) hereof for each year of credited service, if such retirement allowance exceeds one-third (1/3) of his average final compensation; otherwise one and one-half (1½) percent of his average final compensation multiplied by the number of years of city-service which would be credited to him were such city-service to continue until attainment by him of age sixty, but such retirement allowance shall not exceed one-third (1/3) of such average final compensation. In the calculation under this subsection of the retirement allowance of a member having credit for service in a position in the evening schools and service in any other position, separate retirement allowances shall be calculated, in the manner prescribed, for each class of service, the average final compensation in each case being that for the respective class of service; provided that the average final compensation upon which the minimum total retirement allowance is calculated in such

case shall be based on the compensation earnable by the member in the classes of service rendered by him during the five (5) years immediately preceding his retirement. Part time service and compensation shall be reduced to full time service and compensation in the manner prescribed by the board of supervisors, and when so reduced shall be applied as full time service and compensation in the calculation of retirement allowances. The question of retiring a member under this subsection may be brought before the retirement board on said board's own motion, by recommendation of any commission or board, or by said member or his guardian. If his disability shall cease, his retirement allowance shall cease, and he shall be restored to service in the position or classification he occupied at the time of his retirement.

(D) No modification of benefits provided in this section shall be made because of any amounts payable to or on account of any member under workmen's compensation laws of the State of California.

(E) If a member shall die, before his retirement, regardless of cause:

(1) If no benefit is payable under subdivision (2) of this subsection (E), a death benefit shall be paid to his estate or designated beneficiary consisting of the compensation earnable by him during the six months immediately preceding death, plus his contributions and interest credited thereon.

(2) If, at the date of his death, he was qualified for service retirement by reason of service and age under the provisions of subsection (B) of this section, and he has designated as beneficiary his surviving spouse, who was married to him for at least one full year immediately prior to the date of his death, one-half of the retirement allowance to which the member would have been entitled if he had retired for service on the date of his death shall be paid to such surviving spouse who was his designated beneficiary at the date of his death, until such spouse's death or remarriage, or if there be no surviving spouse, to the unmarried child or children of such member under the age of eighteen years, collectively, until every such child dies, marries or attains the age of eighteen years, provided that no child shall receive any allowance after marrying or attaining the age of eighteen years. If, at the death of such surviving spouse, who was receiving an allowance under this subdivision (2), there be one or more unmarried children of such member under the age of eighteen years, such allowance shall continue to such child or children, collectively, until every such child dies, marries or attains the age of eighteen years, provided that no child shall receive any allowance after marrying

or attaining the age of eighteen years. If the total of the payments of allowance made pursuant to this subdivision (2) is less than the benefit which was otherwise payable under subdivision (1) of this subsection, the amount of said benefit payable under subdivision (1) less an amount equal to the total of the payments of allowance made pursuant to this subdivision (2) shall be apid in a lump sum as follows:

(a) If the person last entitled to said allowance is the remarried surviving spouse of such member, to such spouse.

(b) Otherwise, to the surviving children of the member, share and share alike, or if there are no such children, to the estate of the person last entitled to said allowance.

The surviving spouse may elect, on a form provided by the retirement system and filed in the office of the retirement system before the first payment of the allowance provided herein, to receive the benefit provided in subdivision (1) of this subsection in lieu of the allowance which otherwise would be payable under the provisions of this subdivision. If a surviving spouse, who was entitled to make the election herein provided, shall die before or after making such election but before receiving any payment pursuant to such election, then the legally appointed guardian of the unmarried children of the member under the age of eighteen years may make the election herein provided before any benefit has been paid under this subsection (E), for and on behalf of such children if in his judgment it appears to be in their interest and advantage, and the election so made shall be binding and conclusive upon all parties in interest.

If any person other than such surviving spouse shall have and be paid a community property interest in any portion of any benefit provided under this subsection (E), any allowance payable under this subdivision (2) shall be reduced by the actuarial equivalent, at the date of the member's death, of the amount of benefits paid to such other person.

Upon the death of a member after retirement and regardless of the cause of death, a death benefit shall be paid to his estate or designated beneficiary in the manner and subject to the conditions prescribed by the board of supervisors for the payment of a similar death benefit upon the death of other retired members.

(F) Should any miscellaneous member cease to be employed as such a member, through any cause other than death or retirement, all of his contributions, with interest credited thereon, shall be refunded to him subject to the conditions prescribed by the board of supervisors to cover similar terminations of employment and reemployment with and without redeposit of withdrawn accumulated contributions of other members of the retirement system, provided that if such

member is entitled to be credited with at least ten years of service or if his accumulated contributions exceed one thousand dollars ($1,000), he shall have the right to elect, without right of revocation and within 90 days after said termination of service, or if the termination was by lay-off, 90 days after the retirement board determines the termination to be permanent, whether to allow his accumulated contributions to remain in the retirement fund and to receive benefits only as provided in this paragraph. Failure to make such election shall be deemed an irrevocable election to withdraw his accumulated contributions. A person who elects to allow his accumulated contributions to remain in the retirement fund shall be subject to the same age requirements as apply to other members under this section for service retirement but he shall not be subject to a minimum service requirement. Upon the qualification of such member for retirement by reason of age, he shall be entitled to receive a retirement allowance which shall be the actuarial equivalent of his accumulated contributions and an equal amount of the contributions of the city and county, plus 1-2/3 percent of his average final compensation for each year of service credited to him as rendered prior to his first membership in the retirement system. Upon the death of such member prior to retirement, his contributions with interest credited thereon shall be paid to his estate or designated beneficiary.

(G) The following time and service shall be included in the computation of the service to be credited to a member for the purpose of determining whether such member qualifies for retirement and calculating benefits:

(1) Time during which said member is a member of the retirement system and during and for which said member is entitled to receive compensation because of services as a miscellaneous officer or employee.

(2) Service in the fire and police departments which is not credited as service of a member under this section shall count under this section upon transfer of a member of either of such departments to employment entitling him to membership in the retirement system under this section, provided that the accumulated contribution standing to the credit of such member shall be adjusted by refund to the member or by payment of the member to bring the account at the time of such transfer to the amount which would have been credited to it had the member been a miscellaneous employee throughout the period of his service in either of such departments of the compensation he received in such departments.

(3) Time during which said member is absent from a status included in paragraphs (1) or (2) next preceding which is not

deemed absence from service under the provisions of section 8.520 of the charter and for which such member is entitled to receive credit as service for the city and county by virtue of contributions made in accordance with the provisions of such section.

(4) Prior service determined and credited as prescribed by the board of supervisors for persons who are members under section 8.507.

(5) The board of supervisors, by ordinance enacted by a three-fourths vote of its members, may provide for the crediting as service under the retirement system of service, other than military service, rendered as an employee of the federal government and service rendered as an employee of the State of California or any public entity or public agency in the State of California. Said ordinance shall provide that all contributions required as the result of the crediting of such service shall be made by the member and that no contributions therefor shall be required of the city and county.

(H) All payments provided under this section shall be made from funds derived from the following sources, plus interest earned on said funds:

(1) The rate of contribution of each member under this section shall be based on his nearest age at the effective date of his membership in the retirement system. The normal rate of contribution of each member, to be effective from the effective date of membership under this section, shall be such as, on the average for such member, will provide, assuming service without interruption, under subsection (B) of this section, one-half of that portion of the service retirement allowance to which he would be entitled if retired at age sixty or higher age after rendering ten years of service for retirement under that subsection. No adjustment shall be included in said rates because of time during which members have contributed at different rates. Members' rates of contributions shall be changed only in the manner prescribed by the board of supervisors for changing contributions rates of other members.

(2) There shall be deducted from each payment of compensation made to a member under this section, a sum determined by applying the member's rate of contribution to such compensation. Amounts which would have been deducted in the absence of the limit on such deductions according to service credited, shall be paid to the retirement system following the removal of such limit, in manners and at times approved by the retirement board. The sum so deducted shall be paid forthwith to the retirement system. Said contribution shall be credited to the individual account of the member from whose salary it was deducted, and the total of said

contributions, together with interest credited thereon in the same manner as is prescribed by the board of supervisors for crediting interest to contributions of other members of the retirement system, shall be applied to provide part of the retirement allowance granted to, or allowance granted on account of said member, under this section or shall be paid to said member or his estate or beneficiary as provided in subsections (E) and (F) of this section, provided that the portion of the salaries of the teachers as provided in section 8.507, paragraph (a), as a basis for fixing the contributions to be made, and the benefits to be received, by the teachers under the retirement system shall be determined by the method provided in section 8.507, paragraph (a) and shall not be less than eighty percent of the total salary received by the teachers, unless the board of supervisors shall otherwise provide by ordinance enacted by three-fourths vote of all members of the board.

(3) Contributions based on time included in paragraphs (1) and (3) of subsection (G), and deducted prior to July 1, 1947, from compensation of persons who become members under this section, and standing with interest thereon, to the credit of such members on the records of the retirement system on said date, shall continue to be credited to the individual accounts of said members and shall be combined with and administered in the same manner as the contributions deducted after said date.

(4) The total contributions, with interest thereon, made by or charged against the city and county and standing to its credit, on July 1, 1948, in the accounts of the retirement system, on account of persons who become members under this section, shall be applied to provide the benefits under this section.

(5) The city and county shall contribute to the retirement system such amounts as may be necessary, when added to the contributions referred to in the preceding paragraphs of this subsection (H), to provide the benefits payable under this section. Such contributions of the city and county to provide the portion of the benefits hereunder which shall be based on service rendered by each member prior to the date upon which his rate of contribution is determined in paragraph (1), subsection (H), shall not be less during any fiscal year than the amount of such benefits paid during said year. Such contributions of the city and county to provide the portion of the benefits hereunder which shall be based on service rendered by respective members on and after the date stated in the next preceding sentence, shall be made in annual installments, and the installment to be paid in any year shall be determined by the application of a percentage to the total salaries paid during said year, to persons who are members under this

section, said percentage to be the ratio of the value of the effective date hereof, or at the later date of a periodical actuarial valuation and investigation into the experience under the system, of the benefits thereafter to be paid under this section, from contributions of the city and county, less the amount of such contributions, and plus accumulated interest thereon, then held by said system to provide said benefits on account of service rendered by respective member after the date stated in the sentence next preceding, to the value at said respective dates of salaries thereafter payable to said members. Said values shall be determined by the actuary, who shall take into account the interest which shall be earned on said contributions, the compensation experience of members, and the probabilities of separation by all causes, of members from service before retirement and of death after retirement. Said percentage shall be changed only on the basis of said periodical actuarial valuation and investigation into the experience under the system. Said actuarial valuation shall be made every even-numbered year and said investigation into the experience under the system shall be made every odd-numbered year.

(6) To promote the stability of the retirement system through a joint participation in the result of variations in the experience under mortality, investment and other contingencies, the contributions of both members and the city and county held by the system to provide the benefits under this section, shall be a part of the fund in which all other assets of said system are included. Nothing in the section shall affect the obligations of the city and county to pay to the retirement system any amounts which may or shall become due under the provisions of the charter prior to the effective date hereof, and which are represented on July 1, 1947, in the accounts of said system by debits against the city and county.

(I) Upon the completion of the years of service set forth in subsection (B) of this section as requisite to retirement, a member shall be entitled to retire at any time thereafter in accordance with the provisions of said subsection (B), and nothing shall deprive said member of said right.

(J) No person retired under this section, for service or disability and entitled to receive a retirement allowance under the retirement system shall serve in any elective or appointive position in the city and county service, including membership on boards and commissions, nor shall such persons receive any payment for service rendered to the city and county after retirement, provided that service as an election officer or juror shall not be affected by this section.

(K) Any section or part of any section in this charter, insofar as it

should conflict with this section, or with any part thereof, shall be superseded by the contents of this section. In the event that any word, phrase, clause or subsection of this section shall be adjudged unconstitutional, the remainder thereof shall remain in full force and effect.

(L) Notwithstanding the provisions of subsections (B), (C), (F) and (I) of this section, any member convicted of a crime involving moral turpitude commited in connection with his duties as an officer or employee of the City and County of San Francisco, shall, upon his removal from office of employment pursuant to the provisions of this charter, forfeit all right to any benefits under the retirement system except refund of his accumulated contributions; provided, however, that, if such member is qualified for service retirement by reason of service and age under the provisions of subsection (B) of this section, he shall have the right to elect, without right of revocation and within 90 days after his removal from office or employment, whether to withdraw all of his accumulated contributions or to receive as his sole benefit under the retirement system an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of such removal from office or employment.

Part Two: Provisions of General Application

8.510 Actuarial Tables, Rates and Valuations

The mortality, service and other tables and the rates of contributions for members as recommended by the actuary and the valuations determined by him and approved by the retirement board shall be conclusive and final, and the retirement system shall be based thereon. The total amount, as determined by the actuary and approved by the board, of the contributions required during any fiscal year of the city and county under the retirement system shall be paid into the retirement system by the city and county during such year. Liabilities accruing under the retirement system because of service rendered to the city and county by persons prior to the date their respective classes become eligible for membership in the system, and administrative costs under the system, shall be met by contributions to the retirement system by the city and county, in addition to any amounts contributed to meet liabilities accruing because of service rendered by such persons after becoming members of the system, provided that such prior service liabilities may be met by annual appropriations instead of by one appropriation for the total amount of the liabilities; and provided further, that such appropriation for any one year shall not be less than the amount disbursed during that year on account of prior service. All expenses in connection with the

investment of such fund or funds as may be established, including but not limited to travel and transportation costs, investment seminar expenses, postage, insurance, telephone, and subscriptions to investment publications, shall be paid from the accumulated contributions of the city and county.

Contributions to the retirement system required of the city and county shall be charged by the controller against the general fund or the school, utility, bond or other special fund under which the service was rendered, on account of which the contribution is required; provided that contributions required on account of service rendered by any person prior to becoming a member of the system, under a temporary fund, such as bond or county roads funds, or a fund then no longer existing, may be charged against the general fund, and provided further, that any contributions required on account of persons receiving benefits under subdivision (c) of section 8.507, shall be charged against the general fund.

8.511 Pensions of Retired Persons

(a) No person retired for service or disability and in receipt of a retirement allowance under the retirement system shall serve in any elective or appointive position in the city and county service, including membership on boards and commissions, nor shall such persons receive any payment for service rendered to the city and county after retirement, provided that service as an election officer or juror or in the preparation for or the giving of testimony as an expert witness for or on behalf of the City and County of San Francisco before any court or legislative or administrative body shall not be affected by this section or by section 8.509, section 8.546 or section 8.581 of the charter.

(b) Should any retired person, except persons retired for service prior to January 8, 1932, and persons retired because of disability incurred in the performance of duty, engage in a gainful occupation prior to attaining the age of sixty-two, the retirement board shall reduce that part of his monthly pension or retirement allowance which is provided by contributions of the city and county, to an amount which, when added to the amount earned monthly by him in such occupation, shall not exceed the compensation on the basis of which his pension or retirement allowance was determined.

8.512 Relinquishment of Certain Retirement Allowances

Any person who retired under the San Francisco City and County Employee's Retirement System from an employment status in which he was a member of the State Teachers' Retirement System, and whose retirement was effective after June 30, 1955, and not later

than ninety days after February 1, 1957, may elect, in writing on a form provided by the retirement system and to be filed at the office of said system within ninety days after February 1, 1957, to relinquish his right to a retirement allowance from said City and County Employees' Retirement System. If such person so elects to relinquish said right, his retirement allowance shall be cancelled forthwith and no payments of such allowance shall be made to him, or on his account, for time on and after the effective date of such election, and such election shall be irrevocable. The San Francisco City and County Employees' Retirement System shall pay or be liable to pay to or on account of such person only an amount equal to the actuarial equivalent, as of the effective date of such relinquishment, and on the basis of the mortality tables and interest rate then used under the system, of the portion of the cancelled allowance which was provided by said person's accumulated contributions at the effective date of his retirement. An amount equal to such actuarial equivalent shall be forwarded forthwith to the Retirement Annuity Fund of said State Teachers' Retirement System, to be applied on the amount due to said fund from said person under the provisions of Division (7), Chapter 14 of the Education Code of the State of California, but not to exceed the amount so due as may be quoted in a written statement requested of and received from said State Teachers' Retirement System as applied to any person herein involved. Any excess of the actuarial equivalent over said amount so quoted as due shall be paid forthwith to said person.

8.513 Credit on Current Contributions, for Certain Public Reserves Released by Withdrawal or Relinquishment by Retiring or Retired Teachers.

In the event that any teacher or other employee of the board of education resigns and withdraws during or after the fiscal year which will end June 30, 1957, his accumulated contributions from the San Francisco City and County Employees' Retirement System, and instead within 90 days after such withdrawal is in the status of a person retired under the State Teachers' Retirement System of California on an allowance based on the full allowance formulae under said state system, the contributions which the San Francisco Unified School District is required to make to said City and County Employees' Retirement System on account of service rendered by employees of such unified school district as such members of such system, in accordance with the rate of contribution determined under section 8.509 of the charter, shall be reduced by an amount equal to the actuarial equivalent as of the day next following the date of such withdrawal, of the portion of the allowance to which

such person would have been entitled from said City and County Employees' Retirement System, if he had not resigned, and which would have been based on his service as a member of such City and County Employees' Retirement System, minus the amount of his accumulated normal contributions withdrawn.

In the event that any person retired under the San Francisco City and County Employees' Retirement System from an employment status in which he was a member of the State Teachers' Retirement System, has elected or elects to relinquish his right to a retirement allowance from said City and County Employees' Retirement System, the contributions which the San Francisco Unified School District is required to make to the City and County Employees' Retirement System on account of service rendered by employees of such unified school district as members of such system in accordance with the rate of contribution determined under section 8.509 of the charter, shall be reduced by an amount equal to the actuarial equivalent as of the effective date of such relinquishment, and as determined in connection with such relinquishment, of the portion of the allowance to which said person would have been entitled had he not so elected, and which was based on his service as a member of the City and County Employees' Retirement System, minus the actuarial equivalent determined in connection with such relinquishment of the portion of the cancelled allowance which was provided by said person's accumulated normal contributions at the effective date of his retirement.

If the total of the actuarial equivalents by which the contributions required of the San Francisco Unified School District in any year are to be reduced, exceeds such contributions, the amount of the excess shall be carried over to subsequent fiscal years and applied to reduce such contributions for such years in chronological order.

8.514 Social Security Coverage

The board of supervisors may enact, by a vote of three-fourths of its members, an ordinance or ordinances prescribing the conditions according to which any and all employees of the San Francisco Unified School District and employees of the City and County of San Francisco, other than members of the fire and police department as defined in section 8.560, may be covered under the Federal Old-Age and Survivors Disability Insurance provisions of the Federal Social Security Act, subject to the provisions of this section. "City and county" as hereinafter used shall mean the City and County of San Francisco and the San Francisco Unified School District.

(A) Any member of the San Francisco City and County Employees' Retirement System, hereinafter referred to as the system, who is

or becomes covered by the Federal Old-Age and Survivors Disability Insurance provisions of the Federal Social Security Act, hereinafter referred to as the Act, shall continue to contribute to the system the normal contributions required of him, except that he shall have the right to reduce his normal contributions under the system at his option to be exercised by an election on the system's form said election to be effective on the first day of the month next following its filing in the system's office. Such reduction of normal contributions shall apply only to time during which said member is covered under the Act, and after February 1, 1959, and the amount of said reduction, which may be changed from time to time by said member, in accordance with rules and regulations of the Retirement Board, shall not be more than the amount of said member's contribution under the Act.

Any allowance payable to or on account of such member by the system shall be reduced on the effective date of said allowance by the actuarial equivalent on that date of the normal contributions, including interest to said date, with which said member would have been but was not credited under the system because of said reduction in his normal contributions and because of amounts paid from such member's accumulated contributions for the retroactive period hereinafter provided for, and any continuation of said allowance shall be based on such reduced allowance but said allowance shall not be effected otherwise by the member's reduction of his normal contributions. Said member shall have the right to contribute amounts, which shall be administered as additional contributions, to replace all or part of such reduction in his retirement allowance.

(B) The reductions in allowances and contributions of members shall be made as provided in the foregoing paragraphs, notwithstanding any provisions in the charter to the contrary.

(C) Every employee covered by the agreement providing coverage under the Act shall be liable for the employee contributions required by the Act.

(D) The effective date of coverage under the Act may be made retroactive to such date as the board of supervisors may determine. Contributions required under the Act of each member for time included by the retroactive application shall be paid from such member's accumulated contributions held by the system on account of his compensation not in excess of the maximum compensation taxable under this Act for such retroactive time. If the required contributions under the Act exceed the member's accumulated contributions held by the system so determined, the additional contributions under the Act equal to the excess shall be paid by the member. Contributions required under the Act of the employer on account of

such retroactive period shall be paid from funds held by the system on account of active members and derived from contributions of the city and county.

(E) Any member who is covered by section 210(1) of the Act on the effective date of the agreement between the state and federal government to extend coverage to the members of the system under the Act shall not be subject to this section unless he elect to be covered in accordance with this section, such election to be on a form furnished by the system and to be filed in the office of the system not later than one hundred eighty (180) days after the effective date of such agreement. Such election shall be irrevocable. Such election shall fix the status of the member under such coverage as the same in all respects as if he had not been covered under section 210(1), except that there shall be no adjustment of the member's accumulated contributions or of the funds held by the system, and derived from contributions of the city and county, on account of social security tax for such retroactive period.

Each member who enters the employ of the municipal railway after the effective date of the agreement between the state and federal government to extend coverage to other members of the system under the Act shall be covered under the act in accordance with the terms of this section and the ordinance or ordinances enacted pursuant thereto.

(F) Provision shall be made for modification of the member's retirement allowance at his option, if he retires before he attains the minimum age of qualification for his primary benefit under the Act, in such manner that will make his increased monthly retirement allowance under the system prior to attainment of such age equal to the sum of his decreased monthly allowance after attainment of such age, and his primary benefit under the Act, upon the basis of an estimated primary benefit under the Act, subject to the requirement that the amounts of the increase and decrease in the monthly allowance shall be actuarially equivalent, and that the increase shall not be modified under an option provided by ordinance.

(G) Words used in the masculine gender shall include the feminine and neuter genders, and singular members shall include the plural and the plural the singular.

(H) The contribution rates of the city and county applicable to various memberships under section 8.509 shall be adjusted to rates determined by the actuary according to methods stated in section 8.509.

(I) The board of supervisors shall submit to the eligible employees for purposes of referendum as defined in the Act the question as to

whether they desire coverage under the Act in accordance with conditions prescribed in this section.

(J) The powers of the board of supervisors granted in section 8.500 shall include the authority to make such adjustments in the retirement system, by a vote of three-fourths of its members, as are not made by this section, but as required because of changes in the Act, to carry out the purposes of this section.

8.515 Compensation Insurance Payments

The benefit provisions of the workmen's compensation laws included in the Labor Code of the State of California, as they effect the benefits provided for or payable to or on account of officers and employees, including teachers of the city and county, shall be administered exclusively by the retirement board, provided that the retirement board shall determine whether the city and county, through the retirement system, shall assume the risks under the said law, in whole or in part, or whether it shall reinsure such risks, in whole or in part, with the state compensation insurance fund. Benefits under such risks as may be assumed by the city and county, and premiums under such risks as may be reinsured shall be paid by the retirement system, and an amount equal to the total of such benefits and premiums, as determined by the actuary for any fiscal year, including the deficit brought forward from previous years, shall be paid during such fiscal year to the retirement system by the city and county.

Every patrol special police officer, as referred to in section 8.905 of this charter shall be entitled, under this section, to the benefits of such compensation law, if injured while performing regular city and county police duties, which shall include only duties performed while preventing the commission of a crime, or while apprehending the person or persons committing such crime, and shall not include duties of any character performed for private employers either on or off the premises of such employers, provided that no payments shall be made under this paragraph in the event that the patrol special officer shall receive the benefits of such compensation law from any other source.

Whenever any member of the fire or police department, as defined in sections 8.545, 8.565, and 8.569, respectively, is incapacitated for the performance of his duties by reason of any bodily injury received in or illness caused by the performance of his duty, as determined by the retirement board, he shall become entitled, regardless of his period of service with the city and county, to disability benefits equal to and in lieu of his salary as fixed by the charter, while so disabled, for a period or periods not exceeding twelve months in the aggregate, with respect to any one injury or illness. Said disability

benefit shall be reduced in the manner fixed by the board of supervisors by the amount of any benefits other than medical benefits payable to such person under the Labor Code concurrently with said disability benefit, and because of the injury or illness resulting in said disability. Such disability benefits as are paid in the absence of payments of any benefits other than medical benefits under the workmen's compensation laws included in said Labor Code, shall be considered as in lieu of such benefits, payable to such person under the said code concurrently with said disability benefits, and shall be in satisfaction and discharge of the obligations of the city and county to pay such benefits under the Labor Code. Medical treatment which may become necessary to relieve or cure said member from the effects of the injury or illness shall be furnished by the city and county, in the same manner that such treatment is furnished under said Labor Code, but without first requiring continuing awards of such treatment by the Industrial Accident Commission of the State of California, relating to impairments of permanent or of extended and uncertain duration. The provisions of this paragraph shall be administered exclusively by the retirement board, and the city and county shall pay to the retirement system during each fiscal year, an amount equal to the total disability benefits paid by said system during that year. A member of the fire or police department shall receive credits as service, under the retirement system, for time during which he is incapacitated for performance of duty and receives said disability benefit. Contributions for the retirement system shall be deducted from said benefits in the same manner as they would be deducted from salary paid to him, and the city and county shall contribute, in addition to its other contributions provided herein, to the retirement system on the basis of said benefits in the same manner as it would contribute on salary paid to said member.

Part Three: Continuous Service

8.520 Continuous Service

(a) Continuous service shall be defined by the board of supervisors, but the absence prior to September 14, 1940, of any officer or employee of the city and county from service caused by reason of the service of such officer or employee in the military or naval forces of the United States in any war in which the United States has engaged, shall not be deemed to be absence from service for the purposes of the retirement system and such officer or employee shall receive credit under the retirement system, for the period of such absence, in the same manner as if he had not been absent.

On and after September 14, 1940, a member is absent on military service when he is absent from city service by reason of (1) service with the armed forces of the United States or the State of California; (2) service on ships operated by or for the United States government when such service is granted as "military leave" pursuant to section 3.670 and 3.671 of the charter; (3) service connected with the war effort for which leaves of absence shall be authorized pursuant to sections 3.670 and 3.671 of the charter; or (4) any other service, under an order of the government of the United States or the State of California, or by lawful order of any of the departments or offices of said governments, provided that such absence in any of such services occurs (1) either during a war involving the United States as a belligerent or in time of national emergency, declared by the President of the United States or by the Congress, and for such time thereafter as may be provided by rule of the civil service commission, but not to exceed two years after the proclamation of peace, except in case of disability incurred in line of duty with said armed forces or said ships when such disability extends beyond such period; or (2) in time of peace if he is drafted for such services by the United States government or volunteers for such service while subject to such draft.

For the purposes of this section a war involving the United States as a belligerent exists: (a) whenever Congress has declared any war which has not been terminated by a truce, treaty of peace, or otherwise; (b) whenever the United States is engaged in active military operations against any foreign power, whether or not war has been formally declared; or (c) whenever the United States is assisting the United Nations, in actions involving the use of armed force, to maintain or restore international peace and security.

(b) Any member so absent on military service may contribute to the retirement system during such absence, at times and in the manner prescribed by the board, amounts equal to the contributions which would have been made by him to the system on the basis of his compensation earnable at the commencement of his absence, if he had remained in city service.

Any member who makes the contributions as provided in the preceding paragraph shall receive credit for the absence as service in the manner as if he had not been absent. If, however, a member does not affirmatively exercise the option herein provided, or if he exercised it affirmatively and defaults in any of the contributions due to the retirement system under said election, and in either event if such contributions are not made for him, he shall be considered absent during the period for which no contributions are made, and he shall not receive credit as service for the city and county for such period; but the absence during such period shall not break the continuity of

such service required of such member to entitle him to a retirement allowance, as provided under the retirement system.

Any member who was absent on military service and who did not make the contributions as provided in this section, and whose contributions are not paid for him by the city and county as provided herein, may make such contributions upon his return to city service at times and in the manner prescribed by the board. If he does so contribute, he shall receive credit for the absence as service in the same manner as if he had not been absent.

When a member makes the contributions as provided herein, the same contributions shall be made by the city and county in respect to such absence that would have been made if the member had not been absent on military service, except that such contributions shall be determined by the employer's rate of contribution in effect when such contributions are made, and on the basis of his compensation earnable at the commencement of his absence.

(c) Notwithstanding other provisions of this charter to the contrary, the city and county shall contribute for each member of this system who was absent on military service after September 14, 1940, amounts equal to the contribution which would have been made by such member and the City and County of San Francisco on the basis of his compensation earnable at the commencement of his absence, provided that the member's base pay in such military service is less than $100.00 per month, and provided, further (1) that if the absence in military service was by reason of service in the armed forces of the United States; (2) that the absence began on or after June 25, 1950; and (3) that the member's base pay in such service was less than $250.00 per month, the city and county shall pay the contributions which would have been made by both the member and the city and county on the basis of his compensation earnable at the commencement of his absence. Contributions made by the city and county, in lieu of contributions which otherwise would be required of the member, shall be administered as if made by said member as normal contributions. Any such member who exercises or did exercise the right to contribute to the system during the period of absence on military service, and whose contributions otherwise would be paid by the city and county under this section, shall have his contributions plus credited interest, refunded.

(d) Absence commencing on or after December 7, 1941, of any member of the retirement system from city service caused by reason of his evacuation or exclusion from the city and county by an authorized military commander because such member was of Japanese ancestry shall not be deemed to be absent from service for purposes of the retirement system, for the period of such absence,

provided that he returned to city service within one year after the termination of his evacuation or exclusion, and provided further that upon his return to city service, and at times and in the manner prescribed by the retirement board, he elects to contribute to the retirement system amounts equal to the contributions which would have been made by him to the system on the basis of his compensation earnable at the commencement of his absence, if he had remained in city service.

Any member who makes the contributions as provided in the preceding paragraph shall receive credit under the retirement system for the absence as service in the same manner as if he had not been absent. If, however, a member does not affirmatively elect to make such contributions as herein provided, or if he affirmatively elects to make such contributions and defaults in any of the contributions due to the retirement system as herein provided, he shall be considered absent during the period for which no contributions are made, and he shall not receive credit in the retirement system as service for the city and county for such period; but the absence during such period shall not break the continuity of such service required of such member to entitle him to a retirement allowance as proivded under the retirement system.

When a member makes the contributions as provided herein, the same contributions shall be made by the city and county in respect to such absence that would have been made by the city and county if the member had not been absent because of such evacuation or exclusion, except that such contributions shall be determined by the employer's rate of contribution in effect when such contributions are made, and on the basis of his compensation earnable at the commencement of his absence.

(e) Notwithstanding any other provisions of this Charter, any member who entered military service from a position with the Market Street Railway Company, was absent on such military service on September 29, 1944, and thereafter commenced employment with the Municipal Railway of the City and County of San Francisco within one year after his discharge from such military service shall have the right to elect to make contributions as provided in this section and to receive credit in this system as city service for all or any part of the time on and after September 29, 1944, during which he was in such military service.

Any member who elects pursuant to this section to make contributions and to receive credit for such time shall contribute to the Retirement System an amount determined by applying the rate of contribution first applicable to him on the effective date of his membership in the Retirement System to the monthly compensation

earnable by him on said date, together with interest on said amount at the rate of interest being used from time to time under the retirement system.

The board of supervisors shall provide by ordinance the time and manner for making said contributions and for the crediting of such service as city service.

Part Four: Contributions to Retirement Fund

8.525 Contributions to Retirement Fund

The city and county shall contribute jointly with the members of the retirement system to meet the liabilities accruing under the system because of service rendered to the city and county by persons after becoming members of the system. Members of the system shall contribute not to exceed ten percent of their salaries or wages, provided that members may, at their option, elect to contribute at rates in addition to those fixed as normal by the retirement board. The city and county shall contribute an amount equal to normal contributions of members as provided for in the preceding sentence, but the city and county shall not contribute any amount because of additional contributions by members.

8.526 Cost of Living Adjustment in Allowances

(A) Each retirement or death allowance which is not subject to change when the salary rate of any member is changed and which is payable to or on account of any member who has retired or died prior to July 1, 1967, except such allowances payable to or on account of persons who retired or died prior to July 1, 1947, as members under section 8.507, but including death allowances payable under section 8.561 which are not subject to change when the salary rate of any member is changed, shall be increased for time on and after July 1, 1968, by the percentage set forth in the following table opposite the fiscal year in which said alowance became effective, said percentage to be applied to the allowance payable to the individual who was receiving the allowance on July 1, 1968, (a) exclusive of the annuity provided by additional contributions and (b) prior to reduction pursuant to subsection (A) of section 8.514:

Fiscal year in which allowance became effective	Percentage
All years prior to July 1, 1959	16%
July 1, 1959 to June 30, 1960	14%
July 1, 1960 to June 30, 1961	12%
July 1, 1961 to June 30, 1962	10%
July 1, 1962 to June 30, 1963	8%
July 1, 1963 to June 30, 1964	6%
July 1, 1964 to June 30, 1965	4%
July 1, 1965 to June 30, 1966	2%
July 1, 1966 to June 30, 1967	1%

(1) Funds necessary for the payment of such increases in allowances payable to or on account of members who retired or died as members under Charter Sections 8.507 or 8.509 shall be provided from the City's accumulated contributions held by the system on account of miscellaneous members under section 8.509.

(2) Funds necessary for the payment of such increases in allowances to or on account of members who retired or died as members under Charter Sections 8.543 or 8.544 shall be provided from the City's accumulated contributions held by the system on account of police members under section 8.544.

(3) Funds necessary for the payment of such increases in allowances to or on account of members who retired or died as members under Charter Sections 8.567 or 8.568 shall be provided from the City's accumulated contributions held by the system on account of fire members under section 8.568.

The necessary funds shall be transferred on the effective date of this section from said accumulated contributions to the accumulated contributions held by the system to meet the obligations of the city and county on account of benefits that have been granted and which are based on services rendered as members. The contribution being required of the city and county currently, as percentages of salaries of persons who are members under sections 8.509, 8.544 and 8.568 shall be increased to percentages determined by the actuary as necessary to replace the accumulated contributions so transferred.

(B) (1) The retirement board shall determine, prior to April 1 of each year, the percentage of increase or decrease in the cost of living during the preceding calendar year or years, as shown by the then current Consumer Price Index, All Items, San Francisco (1957-59=100), issued by the U.S. Bureau of Labor Statistics and published in the Monthly Labor Review or a successor publication.

The cost of living adjustments as hereinafter provided shall be based on the percentage of such increase or decrease.

(2) Notwithstanding any other charter or ordinance provision governing the retirement system, every retirement or death allowance payable to or on account of any member who retires or dies as a member of the system or who has retired or died as such a member, except allowances subject to change when the salary rate of any member is changed, shall be increased or decreased as of July 1, 1969, and on July 1 of each succeeding year, subject to the provisions of this subsection (B), by a percentage of the allowance established on July 1, 1968, after any increase under subsection (A) of this section or on the effective date of such allowance, whichever is later, as payable to the individual who is receiving the allowance on the date of any such adjustment (a) exclusive of the annuity provided by additional contributions, and prior to modification pursuant to subsection (F) of section 8.514. On July 1, 1969, the percentage of increase in each such allowance shall be the percentage which is determined by the retirement board to approximate to the nearest one percent, the percentage of increase in the cost of living during the preceding calendar year. On July 1, 1970, and on July 1 of each succeeding year, the percentage of increase or decrease in each such allowance shall be the percentage which is determined by the retirement board to approximate to the nearest one percent of increase or decrease in the cost of living in the calendar year or years since January 1, 1969, or since January 1 of the year in which the last such cost of living adjustment in allowances was made, whichever is later. Any such allowance shall be so adjusted only if it was in effect for at least one year prior to the date of such adjustment. Such adjustment in any year shall not exceed two percent of such allowance; provided, however, that no allowance shall be reduced below the amount being received by the member or his beneficiary on July 1, 1968, or on the effective date he began to receive the allowance, whichever is later.

(3) Any such increases in allowances shall be paid from funds which shall be allocated for that purpose by the retirement board from such earnings on investments not otherwise allocated and after crediting of regular interest to accumulated contributions as are in excess of two percent of the assets of the retirement system at the close of each fiscal year.

(4) Any such increases in allowances which are not funded by such allocations of such earnings, shall be funded by contributions of members under sections 8.507, 8.509, 8.544, 8.568 and by contributions of the city, which shall be at rates which are in addition to the rates of contribution otherwise provided by charter or ordinance,

provided that a member's rate of contribution shall not exceed one-half of one percent of his monthly compensation. The contributions made under this section by any member shall be credited together with regular interest thereon to his individual account and shall be subject to the same charter and ordinance provisions relating to accumulated contributions of the member, including withdrawal and death benefits other than death allowances, provided, however, that upon his retirement or death, such accumulated contributions and interest shall not be applied to provide a part of the retirement benefits payable to him or the death allowance benefits payable on account of his death otherwise provided by charter or ordinance, but instead shall be held, together with the accumulated contributions made by the city pursuant to this subsection (B), with interest thereon, to provide the benefits under this subsection (B). Whenever such accumulated contributions of a member with interest have been paid to him on account of his termination of service or to his beneficiary or estate as a part of his termination of service or to his beneficiary or estate as a part of his death benefits, as provided by charter or ordinance, an amount equal to the amount of contributions and interest so paid shall be applied to reduce the contributions by the city then currently payable under this section. If a member, upon his reentry into membership after the withdrawal of his accumulated contributions, shall redeposit the accumulated contributions withdrawn with interest, as otherwise provided by the charter or ordinance, he shall redeposit the accumulated contributions made under this section with interest in the same manner and under the same conditions as the redeposit of his other accumulated contributions, and an amount equal to the amount of such redeposit of accumulated contributions made under this section with interest, shall become payable forthwith by the city to be included in the city's contributions under this section.

(5) The rates of contribution of members and the city, as provided herein, shall be fixed by the retirement board from time to time as it determines necessary.

Part Five: Specific Adjustments to Retirement Allowances

8.530 Retirement–Miscellaneous Officers and Employees Prior to July 1, 1947

Every retirement allowance payable by the San Francisco City and County Employees' Retirement System, for time commencing on January 1, 1950, to or on account of any person who was retired prior to July 1, 1947, as a member of said system under section 8.507, is hereby increased by the amount of twenty-five dollars per

month, provided such member was entitled to be credited under the retirement system with at least twenty years of service upon which the retirement allowance was determined at retirement. If the member was entitled to be credited with less than twenty years of such service, then said monthly increase shall be an amount which shall bear the same ratio to twenty-five dollars that the service with which the member was entitled to be credited at effective date of retirement, bears to twenty years. This section does not give any member retired prior to January 1, 1950 or his successors in interest, any claim against the city and county for any increase in any retirement allowance paid or payable for any time prior to January 1, 1950. If a member elected at retirement to have his retirement allowance modified under Options 2 or 3, provided by ordinance, and if his beneficiary is living on January 1, 1950, the increase in his allowance shall be modified under the option elected at retirement, and on the basis of current ages, mortality tables and interest rate. If the beneficiary of such a person who elected at retirement to have his allowance modified under one of said options is not living on January 1, 1950, or if the retired member is not living on January 1, 1950, and the beneficiary is receiving the modified retirement allowance, then the allowance shall be increased as provided herein for persons who did not elect an option.

The increase in the retirement allowance shall be apportioned between service rendered prior to the entry of the member into the retirement system and service rendered as a member, in the same proportion that such prior and current service respectively, bears to the total service credited at retirement. Contributions to the retirement system necessary for the payment of the increases in the retirement allowances provided in this section, shall be provided, with respect to the portion of the benefit based on service rendered as members, from the reserves held by the retirement system on account of miscellaneous members, the necessary amount being transferred upon January 1, 1950, from said reserves to the reserves held by the retirement system to meet the obligations on account of benefits that have been granted and on account of prior service of members. The contribution being required of the city currently, as percentages of salaries of persons who are members under section 8.509, shall be increased to percentages determined by the actuary as necessary to replace the reserves so transferred. Contributions to the retirement system necessary for the payment of said increases with reference to prior service, shall be paid to the system by the city and county by annual appropriations, provided that such appropriation for any year shall not be less than the amount disbursed during that year on account of said increases.

8.531 Increasing Retirement Allowances of Miscellaneous Officers and Employees Retired Prior to July 1, 1947

Every retirement allowance payable by the San Francisco City and County Employees' Retirement System, for time commencing on February 1, 1953, to or on account of any person who was retired prior to July 1, 1947, as a member of said system under section 165 of the charter of 1932, as amended, is hereby increased by the amount of $25 per month, provided such member was entitled to be credited under the retirement system with at least twenty years of service upon which the retirement allowance was determined at retirement. If the member was entitled to be credited with less than twenty years of such service, then said monthly increase shall be an amount which shall bear the same ratio to $25 that the service with which the member was entitled to be credited at effective date of retirement, bears to twenty years. This section does not give any member retired prior to February 1, 1953, or his successors in interest, any claim against the city and county for any increase in any retirement allowance paid or payable for time prior to February 1, 1953. If a member elected at retirement to have his retirement allowance modified under Options 2 or 3, provided by ordinance, and if his beneficiary is living on February 1, 1953, the increase in his allowance shall be modified under the option elected at retirement, and on the basis of current ages, mortality tables and interest rate. If the beneficiary of such a person who elected at retirement to have his allowance modified under one of said options is not living on February 1, 1953, or if the retired member is not living on February 1, 1953, and the beneficiary is receiving the modified retirement allowance, then the allowance shall be increased as provided herein for persons who did not elect an option.

The increase in the retirement allowance shall be apportioned between service rendered prior to the entry of the member into the retirement system and service rendered as a member, in the same proportion that such prior and current service respectively, bears to the total service credited at retirement. Contributions to the retirement system necessary for the payment of the increase in the retirement allowances provided in this section, shall be provided, with respect to the portion of the benefit based on service rendered as members, from the reserves held by the retirement system on account of miscellaneous members, the necessary amount being transferred upon February 1, 1953, from said reserves to the reserves held by the retirement system to meet the obligations on account of benefits that have been granted and on account of prior service of members. The contribution being required of the city currently, as

percentages of salaries of persons who are members under section 8.509, shall be increased to percentages determined by the actuary as necessary to replace the reserves so transferred. Contributions to the retirement system necessary for the payment of said increases with reference to prior service, shall be paid to the system by the city and county by annual appropriations, provided that such appropriation for any year shall not be less than the amount disbursed during that year on account of said increases.

8.532 Increasing Retirement Allowances of Miscellaneous Officers and Employees Retired Prior to July 1, 1952

Every retirement allowance payable by the San Francisco City and County Employees' System, for time commencing on April 1, 1956, to or on account of any person who has retired prior to July 1, 1952, as a member of said system under Section 165 of the Charter of 1932, as amended, is hereby increased by the amount of $25 per month, provided such member was entitled to be credited under the retirement system with at least twenty years of service upon which the retirement allowance was determined at retirement. If the member was entitled to be credited with less than twenty years of such service, then said monthly increase shall be an amount which shall bear the same ratio to $25 that the service with which the member was entitled to be credited at effective date of retirement, bears to twenty years. This section does not give any member retired prior to April 1, 1956, or his successors in interest, any claim against the city and county for any increase in any retirement allowances paid or payable for time prior to April 1, 1956. If a member elected at retirement to have his retirement allowance modified under Option 2 or 3, provided by ordinance, and if the member and his beneficiary are living on April 1, 1956, the increase in the allowance shall be modified under the option elected at retirement, and on the basis of current ages, mortality tables and interest rate. If the beneficiary of such a person who elected at retirement to have his allowance modified under one of said options is not living on April 1, 1956, or if the retired member is not living on April 1, 1956, and the beneficiary is receiving the modified retirement allowance, then the allowance shall be increased as provided herein for persons who did not elect an option.

The increase in the retirement allowance shall be apportioned between service rendered prior to the entry of the member into the retirement system and service rendered as a member, in the same proportion that such prior and current service respectively, bears to the total service credited at retirement. Contributions to the retirement system necessary for the payment of the increases in the

retirement allowances provided in this section, shall be provided, with respect to the portion of the benefit based on service rendered as members, from the reserves held by the retirement system on account of miscellaneous members, the necessary amount being transferred upon April 1, 1956, from said reserves to the reserves held by the retirement system to meet the obligations on account of benefits that have been granted and on account of prior service of members. The contribution being required of the city currently, as percentages of salaries of persons who are members under section 8.509 shall be increased to percentages determined by the actuary as necessary to replace the reserves so transferred. Contributions to the retirement system necessary for the payment of said increases with reference to prior service, shall be paid to the system by the city and county by annual appropriations, provided that such appropriation for any year shall not be less than the amount disbursed during that year on account of said increases.

8.533 Increasing Retirement Allowances of Miscellaneous Officers and Employees Retired Prior to July 1, 1947

Every retirement allowance payable by the San Francisco City and County Employees' Retirement System, for time commencing on March 1, 1964, to or on account of any person who was retired prior to July 1, 1947, as a member of said system under section 8.507, formerly section 165 of the Charter of 1932, as amended, is hereby increased by the amount of $25 per month, provided such member was entitled to be credited under the retirement system with at least twenty years of service upon which the retirement allowance was determined at retirement. If the member was entitled to be credited with less than twenty years of service, then said monthly increase shall be an amount which shall bear the same ratio to $25, that the service with which the member was entitled to be credited at the effective date of his retirement, bears to twenty years. This section does not give any member retired prior to March 1, 1964, or his successor in interest, any claim against the city and county for any increase in any retirement allowance paid or payable for the time prior to March 1, 1964. If a member elected at retirement to have his retirement allowance modified under Options 2 or 3, provided by ordinance, and if both he and his beneficiary are living on March 1, 1964, the increase in his allowance shall be modified under the option elected at retirement, and on the basis of current ages, mortality tables and interest rates. If the beneficiary of such a person who elected at retirement to have his allowance modified under one of said options is not living on March 1, 1964, or if the retired member is not living on March 1, 1964, and the beneficiary is

receiving the modified retirement allowance, then the allowance shall be increased as provided herein for persons who did not elect an option.

The increase in the retirement allowance shall be apportioned between service rendered prior to the entry of the member into the retirement system and service rendered as a member, in the same proportion that such prior and current service respectively, bears to the total service credited at retirement. Contributions to the retirement necessary for the payment of the increases in the retirement allowances provided in this section, shall be provided, with respect to the portion of the benefit based on service rendered as members, from the reserves held by the retirement system on account of miscellaneous members, the necessary amount being transferred upon March 1, 1964, from said reserves to the reserves held by the retirement system to meet the obligations on account of benefits that have been granted and on account of prior service of members.

The contribution being required of the city currently, as percentages of salaries of persons who are members under section 8.509 shall be increased to percentages determined by the actuary as necessary to replace the reserves so transferred. Contributions to the retirement system necessary for the payment of said increases with references to prior services, shall be paid to the system by the city and county by annual appropriations, provided that such appropriation for any year shall not be less than the amount disbursed during that year on account of said increases.

8.534 Increasing Retirement Allowances of Miscellaneous Officers and Employees Retired Prior to July 2, 1952

Every retirement allowance payable by the San Francisco City and County Employees' Retirement System, from time commencing on February 1, 1957, to or on account of any person who was retired prior to July 2, 1952, as a member of said system under section 8.509 formerly section 165.2 of the charter of 1932, as amended, and to or on account of any person who was retired prior to July 2, 1952, but not prior to July 1, 1952, as a member of said system under section 8.507, formerly section 165 of the charter of 1932, as amended, is hereby increased by the amount of $25 per month, provided such member was entitled to be credited under the retirement system with at least twenty years of service upon which the retirement allowance was determined at retirement. If the member was entitled to be credited with less than twenty years of such service, then said monthly increase shall be an amount which shall bear the same ratio to $25 that the service with which the member was entitled to be credited at effective date of retirement,

bears to twenty years. This section does not give any member retired prior to February 1, 1957, or his successors in interest, any claim against the city and county for any increase in any retirement allowance paid or payable for time prior to February 1, 1957. If a member elected at retirement to have his retirement allowance modified under Option 2 or 3, provided by ordinance, and if the member and his beneficiary are living on February 1, 1957, the increase in the allowance shall be modified under the option elected at retirement, and on the basis of current ages, mortality tables and interest rate. If the beneficiary of such a person who elected at retirement to have his allowance modified under one of said options is not living on February 1, 1957, or if the retired member is not living on February 1, 1957, and the beneficiary is receiving the modified retirement allowance, then the allowance shall be increased as provided herein for persons who did not elect an option.

The increase in the retirement allowance shall be apportioned between service rendered prior to the entry of the member into the retirement system and service rendered as a member, in the same proportion that such prior and current service respectively, bears to the total service credited at retirement. Contributions to the retirement system necessary for the payment of the increases in the retirement allowances provided in this section, shall be provided, with respect to the portion of the benefit based on service rendered as members, from the reserves held by the retirement system on account of miscellaneous members, the necessary amount being transferred upon February 1, 1957, from said reserves to the reserves held by the retirement system to meet the obligations of the city and county on account of benefits that have been granted and on account of prior service of members. The contribution being required of the city and county currently as percentages of salaries of persons who are members under section 8.509, shall be increased to percentages determined by the actuary as necessary to replace the reserves so transferred. Contributions to the retirement system necessary for the payment of said increases with references to prior service, shall be paid to the system by the city and county by annual appropriations, provided that such appropriation for any year shall not be less than the amount disbursed during that year on account of said increases.

8.535 Increasing Retirement Allowances of Miscellaneous Officers and Employees Retired on or After July 1, 1947, and Prior to April 1, 1966.

Every retirement allowance payable to or on account of a member who retired under the provisions of section 8.509 (formerly section

165.2 of the charter of 1932) on or after July 1, 1947, and prior to April 1, 1966, is hereby increased for time commencing on the effective date of this section, hereby designated as the first day of the month next following ratification by the State Legislature, to the amount it would have been if such allowance had been computed, on the date such member's retirement allowance was first effective, as if "average final compensation" were defined as the average monthly compensation earned by a member during any three consecutive years of credited service in the retirement system in which his average compensation is the highest.

This section does not give any person retired under the provisions of said section 8.509, or his successors in interest, any claim against the city and county for any increase in any retirement allowance paid or payable for time prior to the effective date of this section.

Any increase in any retirement allowance resulting from the calculation provided in this section shall be disregarded in connection with any adjustment of retirement allowances pursuant to the provisions of section 8.526 (formerly section 164.1 of the charter of 1932). *(Added 1972)*

Part Six: Provisions of Special Application to the Police Department

8.540 Members of the Police Department on January 8, 1932

Persons who are members of the police department on the 8th day of January, 1932, shall become members of the retirement system on that date, subject to the following provisions in addition to the provisions contained in sections 3.670, 3.672, 8.500, 8.502, 8.510, 8.511, 8.520, and 8.560 of this charter:

(a) Any member of the department who has arrived or shall arrive at the age of sixty-two years, and who has completed thirty years of continuous service as an active member of the department next preceding his retirement, may retire from service at his option, provided that retirement shall be compulsory at the age of seventy years. Such retired member shall receive a monthly pension, payable throughout his life, equal to one-half of the amount of the monthly salary attached to the rank held by him three years prior to the date of his retirement, hereinafter referred to in this section and section 8.542 as a "pension."

Before the first payment of the pension is made, such retired member may elect to receive the actuarial equivalent of his pension, partly in a pension to be received by him throughout his life, and partly in other benefits payable after his death to another person or

members of the retirement system under the provisions of section 8.543, which applies to persons who become members of the department after the 8th day of January, 1932. If such persons shall affirmatively exercise such option within the time specified, then on and after the first day of the month next following such affirmative action, referred hereinafter in this subdivision (h) as "effective date," they shall not receive any benefit or make any contribution under this section, but on and after said effective date shall be members of the retirement system and shall receive benefits and make contributions on the same basis as persons who become members of the department after the 8th day of January, 1932, provided that a pension for each person affirmatively exercising such option shall be payable on account of service rendered to the city and county prior to said effective date, by such members' contributions made prior to such effective date, with interest, and by contributions of the city and county, which pension shall be the same percentage regardless of the age of retirement, of his final compensation, as defined by the board of supervisors, for each year of such service, as the contributions of the member and the city and county are calculated to provide upon retirement at age sixty-two for each year of service rendered as a member of the retirement system.

8.541 Salary Base, for Retirement Purposes, of Former Rank of Corporal of Police

For all purposes of the retirement system, and notwithstanding any other provisions of the charter, the monthly salary attached to the former rank of corporal, heretofore held by a member of the police department, shall henceforth be deemed to be an amount equal to the maximum monthly salary attached to the rank of police officer, plus three-fourths of the difference between such amount and the monthly salary attached to the rank of sergeant.

8.542 Police Department–Retired Members and Beneficiaries on January 8, 1932

Any member of the police department who shall have been retired and shall be receiving a pension on the 8th day of January, 1932, and any widow, child, children or parents of a deceased member of the department who shall be receiving a pension on the 8th day of January, 1932, shall continue to receive such pension, subject to the provisions of section 8.540 governing the payment of pensions. Such pension shall be paid by the retirement system, but no other benefits shall be provided for such retired members, widows, children or parents, except that upon the death of any such member who is receiving a pension under this section and regardless of the cause of

death, a death benefit shall be paid to his estate or designated beneficiary, the amount of which shall be determined in the manner prescribed by the board of supervisors.

8.543 Members of the Police Department– January 8, 1932 to July 1, 1945

Persons who become members of the police department after the 8th day of January, 1932, and prior to July 1, 1945, shall become members of the retirement system subject only to the following provision in addition to the provisions contained in sections 3.670, 3.672, 8.500, 8.501, 8.502, 8.510, 8.511, 8.520, 8.525 and 8.560 of this charter: No such member of the retirement system shall be retired, except in case of disability incapacitating him for the performance of his duties, unless he shall have attained the age of sixty-two years, and completed twenty-five years of continuous service, except that retirement shall be compulsory at the age of seventy years. It may be provided, however, under such retirement system, that members may retire after thirty years of continuous service, the benefits of retirement in such cases to be determined, because of retirement at an age below sixty-two, in accordance with the tables recommended by the actuary and approval by said retirement board.

8.544 Members of the Police Department after July 1, 1945

Members of the police department, as defined in section 8.545, who are members of the retirement system under sections 8.507, 8.540 or 8.543 of the charter on the first day of July, 1945, and persons who become members of said department after said date, shall be members of the retirement system under this section 8.544 on and after said date, and shall be subject to the following provisions of section 8.544 and sections 8.545, 8.546, 8.547, 8,548, 8.549, 8.551, 8.552, 8.553, 8.554, 8.555, 8.556, 8.557, 8.558, and 8.559 (which shall apply only to members under section 8.544 unless otherwise indicated) in addition to the provisions contained in sections 3.670, 3.671, 8.500, 8.510, and 8.520 of this charter notwithstanding the provisions of any other section of the charter. Members of the said department who are members of the retirement system under section 8.540 of the charter on July 1, 1949, however, shall have the option to be exercised in writing on a form furnished by the retirement system and to be filed at the office of said system not later than ninety days after July 1, 1949, of being members of the system under section 8.540 instead of section 8.544, the election under said option to be effective on said date. In like manner, members of the said department who are members of the retirement

system under section 8.507 or 8.543 of the charter shall have the option, to be exercised in writing on a form furnished by the retirement system, and to be filed at the office of said system not later than ninety days after July 1, 1949, of being members of the system under sections 8.507 or 8.543, respectively, instead of section 8.544 the election to be effective on said date, provided, that members who are absent by reason of service in the armed forces of the United States or by reason of any other service included in section 8.520 of the charter, on the effective date of the amendment shall have the same option of electing to be members under sections 8.507, 8.540 or 8.543, as the case may be, instead of section 8.544, until ninety days after return to service in the police department.

On and after July 1, 1949, the persons who affirmatively exercise said option, shall continue to be members of the system under sections 8.507, 8.540, or 8.543, respectively, and shall not be subject to any of the provisions of section 8.544.

8.545 Definitions

The following words and phrases as used in this section, unless a different meaning is plainly required by the context shall have the following meanings:

"Retirement allowance," "death allowance," or "allowance" shall mean equal monthly payments, beginning to accrue upon the date of retirement, or upon the day following the date of death, as the case may be and continuing for life unless a different term of payment is definitely provided by the context.

"Compensation," as distinguished from benefits under the Workmen's Compensation Insurance and Safety Act of the State of California, shall mean the remuneration payable in cash, by the city and county, without deduction except for absence from duty, for time during which the individual receiving such remuneration is a member of the police department, but excluding remuneration paid for overtime.

"Compensation earnable" shall mean the compensation which would have been earned had the member received compensation without interruption throughout the period under consideration at the rates of remuneration attached at that time to the ranks or positions held by him during such period, it being assumed that during any absence he was in the rank or position held by him at the beginning of the absence, and that prior to becoming a member of the police department, he was in the rank or position first held by him in such department.

"Benefit" shall include "allowance," "retirement allowance," "death allowance" and "death benefit."

"Final compensation" shall mean the monthly compensation earnable by a member at the time of his retirement, or death before retirement, as the case may be, at the rate of remuneration attached at that time to the rank or position which said member held, provided that said member has held said rank or position for at least one year immediately prior to said retirement or death; and provided, further, that if said member has not held said rank or position for at least one year immediately prior to said retirement or death, "final compensation," as to such member, shall mean the monthly compensation earnable by such member in the rank or position next lower to the rank or position which he held at the time of retirement or death at the rate of remuneration attached at the time of said retirement or death to said next lower rank or position; provided, however, that in the case of a member's death before retirement as the result of a violent traumatic injury received in the performance of his duty, "final compensation," as to such member shall mean the monthly compensation earnable by such member at the rate of remuneration attached on the date he receives such injury to the rank or position held by such member on that date.

The amendment of the definition of "final compensation" contained in the proposition therefor submitted to the electorate on June 6, 1972, shall be retroactive and shall be applicable to any death allowance first effective on or after July 1, 1971. Said amendment does not and shall not increase any death allowance first in effect prior to July 1, 1971, nor shall said amendment give any person receiving a death allowance, or his successors in interest any claim against the city and county for any increase in any death allowance paid or payable for time prior to July 1, 1971.

For the purpose of the retirement system and of this section, the terms "member of the police department," "member of the department" or "member" shall mean any officer or employee of the police department whose employment therein began prior to January 1, 1900, or whose employment therein began or shall begin after that date, and was or shall be subject to the charter provisions governing entrance requirements for members of the uniformed force of said department, and said terms further shall mean, from the effective date of their employment in said department, persons employed on July 1, 1945, regardless of age, or employed after said date at an age not greater than the maximum age then prescribed for entrance into employment in said uniformed force, to perform the duties now performed under the titles of criminologist, photographer, police patrol driver, police motor boat operator, woman protective officer, police woman or jail matron. Any police service performed by such member of the police department outside the limits of the city and

county and under orders of a superior officer of any such member, shall be considered as city and county service, and any disability or death incurred therein shall be covered under the provisions of the retirement system.

"Retirement system" or "system" shall mean San Francisco City and County Employees' Retirement System as created in section 8.600 of the charter.

"Retirement board" shall mean "retirement board" as created in section 3.670 of the charter.

"Charter" shall mean the charter of the City and County of San Francisco.

Words used in the masculine gender shall include the feminine and neuter genders, and singular numbers shall include the plural and the plural the singular.

"Interest" shall mean interest at the rate adopted by the retirement board. *(Amended 1972)*

8.546 Service Retirement

Any member of the police department who completes at least twenty-five years of service in the aggregate and attains the age of fifty (50) years, said service to be computed under section 8.554, may retire for service at his option. Members shall be retired on the first day of the month next following the attainment by them of the age of sixty-five years. A member retired after meeting the service and age requirements in the two sentences next preceding, shall receive a retirement allowance equal to fifty-five percent of the final compensation of said member, as defined in section 8.545, plus an allowance at the rate of three percent of said final compensation, for each year of service rendered after qualifying as to age and service for retirement; provided, however, that such retirement allowance shall not exceed seventy percent of said member's final compensation. A member retired after attaining the age of sixty-five years, but before completing twenty-five years of service in the aggregate computed under section 8.554, shall receive a retirement allowance which bears the same ratio to fifty percent of the final compensation of said member, as defined in section 8.545 as the service with which he is entitled to be credited, bears to twenty-five years. If at the date of retirement for service, or retirement for disability resulting from an injury received in performance of duty, said member has no wife, children or dependent parents, who would qualify for the continuance of the allowance after the death of said member, or with respect to the portion of the allowance which would not be continued regardless of dependents, or upon retirement for disability resulting from other causes, with respect to all of the allowance and regardless

of dependents at retirement, a member retired under this section, or section 8.547, may elect before the first payment of the retirement allowance is made, to receive the actuarial equivalent of his allowance or the portion which would not be continued regardless of dependents, as the case may be, partly in a lesser allowance to be received by him throughout his life, and partly in other benefits payable after his death to another person or persons, provided that such election shall be subject to all the conditions prescribed by the board of supervisors to govern similar election by other members of the retirement system, including the character and amount of such other benefits.

8.547 Retirement for Incapacity

Any member of the police department who becomes incapacitated for the performance of his duty by reason of bodily injury received in, or illness caused by performance of his duty, shall be retired. If he is not qualified for service retirement, he shall receive a retirement allowance in an amount which shall be equal to the same percentage of the final compensation of said member, as defined in section 8.545, as his percentage of disability is determined to be. The percentage of disability shall be as determined by the Workmen's Compensation Appeals Board of the State of California upon referral from the retirement board for that purpose; provided that the retirement board may, by five (5) affirmative votes, adjust the percentage of disability as determined by said Appeals Board; and provided, further, that such retirement allowance shall be in an amount not less than fifty percent nor more than ninety percent of the final compensation of said member, as defined in section 8.545. Said allowance shall be paid to him until the date upon which said member would have qualified for service retirement had he lived and rendered service without interruption in the rank held by him at retirement, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date, based on the final compensation as defined in section 8.545 he would have received immediately prior to said date had he lived and rendered service as assumed, but such allowance shall not be less than fifty-five percent of such final compensation. If at the time of retirement because of disability, he is qualified as to age and service for retirement under section 8.546, he shall receive an allowance equal to the retirement allowance which he would receive if retired under section 8.546 but not less than fifty-five percent of said final compensation. Any member of the police department who becomes incapacitated for the performance of his duty, by reason of a cause not included under the provisions of

remarried shall be paid to his child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of eighteen years. Should said member leave no surviving wife and no children under the age of eighteen years, but leave a parent or parents dependent upon him for support, the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving wife otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving wife unless she was married to the member prior to the date of the injury or the onset of the illness which results in death, if he had not retired, or unless she was married to the member at least one year prior to his retirement.

As used in this section and section 8.548, "surviving wife" shall mean and include a surviving spouse, and shall also mean and include a spouse who has remarried since the death of the member but whose remarriage has been terminated by death, divorce or annulment within five years after the date of such remarriage and who has not thereafter again remarried.

The surviving wife, in the event of death of the member after qualification for but before service retirement, may elect before the first payment of the allowance, to receive the benefit provided in section 8.552 in lieu of the allowance which otherwise would be continued to her under this section. If there be no surviving wife, the guardian of the child or children under age eighteen may make such election, and if there be no such children, the dependent parent or parents may make such election. Persons heretofore or hereafter retired under other charter sections, as members of the police department at the time of retirement, shall be subject to the provisions of this section. With respect to members under section 8.544, "Qualified for service retirement," "Qualification for service retirement" or "Qualified as to age and service for retirement," as used in this section and other sections to which persons who are members under section 8.544 are subject, shall mean completion of twenty-five years of service and attainment of age fifty, said service to be computed under section 8.554.

8.550 Adjustment of Allowances

(a) Every allowance based on the average monthly compensation earnable by the member during the three or ten years prior to retirement or death, and payable for time commencing on April 1, 1952, to or on account of persons who were retired or who died prior to January 1, 1951, as members of the police department, shall

be adjusted to the amount it would be if it had been based on the monthly compensation fixed in section 35.5 of the charter of 1932 as amended as of July 1, 1951, for the rank of police officer in the respective years of service, regardless of the rank or position the member held in the department prior to his retirement, or death before retirement. Every service retirement allowance under section 8.543 which is included in the sentence next preceding, shall be adjusted to what it would have been, if prior to optional modification, the allowance had been fifty percent of said monthly compensation. Allowances payable under sections 8.547, 8.548 or 8.561 to or on account of persons who were retired for disability or died prior to January 1, 1951, on and after the date such persons would have qualified for service retirement, shall be calculated as provided in said sections 8.547, 8.548, or 8.561, respectively. The provisions of section 8.549 with respect to continuance of one-half of retirement allowance upon deaths after retirement, shall be applied from April 1, 1952, as if they were effective on November 2, 1948. This section does not authorize any decrease in any allowance from the amount being paid as of April 1, 1952, nor does this section give any retired member, or any beneficiary of such member, or his successors in interest, any claim against the city and county for any increase in any allowance paid or payable for the time prior to April 1, 1952. Adjustment in reserves under allowances which are changed according to this section, shall be made on the basis of current interest rate and mortality tables.

The increase in the retirement allowance shall be apportioned according to services rendered by the member in the same manner that the allowance prior to increase was apportioned. Contributions to the retirement system, necessary for the payment of the increase of the portion of the retirement allowances which is paid from reserves held by the retirement system, shall be provided from the reserves held by the retirement system on account of members under section 8.544, the necessary amount being transferred upon April 1, 1952, from said reserves to the reserves held by the retirement system to meet the obligations on account of benefits that have been granted and on account of prior service of members. The contribution being required of the city and county currently, as a percentage of salaries of persons who are members under section 8.544, shall be increased to a percentage determined by the actuary as necessary to replace the reserves so transferred. Contributions to the retirement system necessary for the payment of said increases with reference to current and prior service portions of the allowances which are not paid from reserves held by the retirement system, shall be paid to the system by the city and county by annual appropriations, provided

that such appropriation for any year shall not be less than the amount disbursed during that year on account of said increases.

(b) Every retirement or death allowance payable for time commencing on April 1, 1956, to or on account of any person who died or was retired prior to November 8, 1955, as a member of the police department, unless such person was retired or died as a member of the retirement system or the former police relief and pension fund, under any section of the charter, other than section 8.543, or 8.544, is hereby increased by the amount of $25.00 per month; provided, however, that such increased retirement allowance or death allowance shall not exceed 50 percent of the compensation as of July 1, 1954, attached to the rank of police officer in the fourth year of service as set forth under section 35.5 of the charter of 1932, as amended regardless of the rank or position the member held in the department prior to his retirement or death before retirement.

Such increase shall not be modified under, nor subject to, Option 2 or 3 provided by ordinance. Allowances payable under sections 8.547, 8.548, or 8.561, to or on account of persons who were retired for disability or died prior to November 8, 1955, on and after the date such persons would have qualified for service retirement, shall be calculated as provided in said sections 8.547, 8.548, or 8.561, respectively.

This section does not authorize any decrease in any allowance from the amount being paid as of April 1, 1956, nor does this section give any member who retired, or the beneficiary of any member who died prior to April 1, 1956, or his successors in interest, any claim against the city and county for any increase in retirement allowance paid or payable for time prior to April 1, 1956.

The increase in allowance shall be apportioned between service rendered prior to the entry of the member into the retirement system under section 8.543 or 8.544, and service rendered as such a member, in the same proportion that such prior and current service respectively, bears to the total service credited at retirement. Contributions to the retirement system necessary for the increases in the allowances provided in this section, shall be provided, with respect to the portion of the benefit based on service rendered as members under section 8.543 or 8.544 from the reserves held by the retirement system on account of members of the retirement system under section 8.544, the necessary amount being transferred upon April 1, 1956, from said reserves to the reserves held by the retirement system to meet the obligations on account of allowances which are increased by this subsection 8.550 (b). The contribution being required of the city and county currently, as percentages of salaries of persons who are members under section 8.543 or 8.544, shall be paid

to the system by the city and county by annual appropriations, provided that such appropriation for any year shall not be less than the amount disbursed during that year on account of said increases.

8.551 Adjustment of Allowances Because of Compensation Benefits

That portion of any allowance payable because of the death or retirement of any member of the police department, which is provided by contributions of the city and county, shall be reduced in the manner fixed by the board of supervisors, by the amount of any benefits, other than medical benefits, payable to or on account of such person, under the Workmen's Compensation Insurance and Safety Law of the State of California and because of the injury or illness resulting in said death or retirement. Such portion which is paid because of death or retirement which resulted from injury received in or illness caused by performance of duty, shall be considered as in lieu of any benefits, other than medical benefits, payable to or on account of such persons under the said law of the State of California, and shall be in satisfaction and discharge of the obligation of the city and county to pay such benefits.

8.552 Death Benefits

If a member of the police department shall die, before retirement, from causes other than an injury received in, or illness caused by the performance of duty, or regardless of cause, if no allowance shall be payable under sections 8.548 or 8.549 preceding, a death benefit shall be paid to his estate or designated beneficiary, the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system. Upon the death of a member after retirement and regardless of the cause of death, a death benefit shall be paid to his estate or designated beneficiary, the amount of which and the conditions for payment of which shall be determined in the manner prescribed by the board of supervisors for the payment of a similar benefit upon the death of other retired members.

8.553 Refunds and Redeposits

Should any member of the police department cease to be employed as such a member, through any cause other than death or retirement or transfer to another office or department, all of his contributions, with interest credited thereon, shall be refunded to him subject to the conditions prescribed by the board of supervisors to govern similar terminations of employment of other members of

the retirement system. If he shall again become a member of the police department, he shall redeposit in the retirement fund the amount refunded to him. Contributions with interest, which are credited because of service rendered in any other office or department and which will not be counted under section 8.554 to any person who becomes a member of the retirement system under section 8.544, shall be refunded to him forthwith. Should a member of the police department become an employee of any other office or department, his accumulated contribution account shall be adjusted by payments to or from him as the case may be, to make the accumulated contributions credited to him at the time of change, equal to the amount which would have been credited to him if he had been employed in said other office or department at the rate of compensation received by him in the police department, and he shall receive credit for service for which said contributions were made, according to the charter section under which his membership in the retirement system continues.

8.554 Computation of Service

The following time shall be included in the computation of the service to be credited to a member of the police department for the purposes of determining whether such member qualified for retirement, and calculating benefits, excluding, however, any time the contributions for which were withdrawn by said member upon termination of his service while he was a member under any other charter section, and not redeposited upon re-entry into service:

(1) Time during and for which said member is entitled to receive compensation because of services as a member of the fire or police department.

(2) Time during which said member served and received compensation as a jail matron in the office of the sheriff.

(3) Time during which said member is entitled to receive compensation while a member of the retirement system, because of service rendered in other offices and departments before July 1, 1949, provided that accumulated contributions on account of such service, previously refunded, are redeposited, with interest from date of refund to date of redeposit, at times and in the manner fixed by the retirement board; and solely for the purpose of determining qualification for retirement under section 8.547 for disability not resulting from injury received in, or illness caused by performance of duty, time during which said member serves, after June 30, 1949, and receives compensation because of services rendered in other offices and departments.

(4) Time during which said member is absent from a status included in paragraphs (1), (2) or (3) next preceding, by reason of service in the armed forces of the United States of America, or by reason of any other service included in section 8.520 of the charter, during any war in which the United States was or shall be engaged or during other national emergency, and for which said member contributed or contributes to the retirement system or for which the city and county contributed or contributes on his account

8.555 Sources of Funds

All payments provided for persons who are members under section 8.544 shall be made from funds derived from the following sources, plus interest earned on said funds:

(1) The normal rate of contribution of each member shall be based on his age taken to the next lower complete quarter year, (a) at the date he became a member under section 8.507 or 8.543, in the case of persons who are members under these sections, or (b) at July 1, 1945, in the case of persons who are members under section 8.540, and his age taken to the next lower completed quarter year, when he entered the police department, or (c) on his age at the date he becomes a member under section 8.544, in the case of persons who become members on or after July 1, 1945, without credit for services counted under section 8.554. The age of entrance into the police department shall be determined by deducting the member's service credited under section 8.554 as rendered prior to the date upon which his age is based for determination of the rate of contribution according to the sentence next preceding, from said age. The normal rate of contribution of each such member, to be effective from the effective date of membership under section 8.544, shall be such as, on the average for such member, will provide, assuming service without interruption, under section 8.546, one third of that portion of the service retirement allowance to which he would be entitled, without continuance to dependents, upon first qualifying as to age and service, for retirement under that section, without discount of allowance, which is based on service rendered after the date upon which his age is based for determination of his rate of contribution according to the first sentence in this paragraph, and assuming the contribution to be made from that date. The normal rate of contribution, however, shall not exceed six percent.

(2) The dependent rate of contribution of each member which shall be required of each member throughout his membership in addition to the normal contributions, and in the same manner as normal contributions, shall be such as, on the average for such

member, will provide, assuming service without interruption under section 8.546, and upon his first qualifying as to age and service for retirement under that section, one-third of the portion of his allowance, which is to be continued under section 8.549, after his death and throughout the life of a surviving wife whose age at said death is three years less than the age of said member. If, at the date of retirement for service or retirement for disability resulting from injury received in performance of duty, said member has no wife who would qualify for the continuance of the allowance to her after the death of said member, or upon retirement from disability resulting from other causes, regardless of his marital condition, the dependent contributions with accumulated interest thereon, shall be paid to him forthwith. The dependent rate of contribution, however, shall not exceed the difference between six percent and the member's normal rate of contribution, and said dependent rate may be taken as a flat percentage of the member's normal rate, regardless of the age of qualification for service retirement.

(3) There shall be deducted from each payment of compensation made to a member under section 8.544, a sum determined by applying the member's rates of contribution to such compensation payment. The sum so deducted shall be paid forthwith to the retirement system. Said contribution shall be credited to the individual account of the member from whose salary it was deducted, and the total of said contributions, together with interest credited thereon in the same manner as is prescribed by the board of supervisors for crediting interest to contributions of other members of the retirement system, shall be applied to provide part of the retirement allowance granted to, or allowance granted on account of said members or shall be paid to said member or his estate or beneficiary as provided in sections 8.552, 8.553, and 8.554.

(4) Contributions based on time included in paragraphs (1), (2), (3) and (4) of section 8.554 and deducted prior to July 1, 1945, from compensation of persons who become members under section 8.544, and standing with interest thereon, to the credit of such members on the records of the retirement system on said date, shall continue to be credited to the individual accounts of said members and shall be combined with and administered in the same manner as the contributions deducted after said date.

(5) The total contributions, with interest thereon, made by or charged against the city and county and standing to its credit, in the accounts of the retirement system, on account of persons who become members under section 8.544, shall be applied to provide the benefits under said section.

(6) The city and county shall contribute to the retirement system

such amounts as may be necessary, when added to the contributions referred to in the preceding paragraphs of this section 8.555, to provide the benefits payable under this section. Such contributions of the city and county to provide the portion of the benefits hereunder which shall be based on service rendered by each member prior to the date upon which his age is based for determination of his rate of contribution in paragraph (1), section 8.555 shall not be less during any fiscal year than the amount of such benefits paid during said year. Such contributions of the city and county to provide the portion of the benefits hereunder which shall be based on service rendered by respective members on and after the date stated in the next preceding sentence, shall be made in annual installments, and the installment to be paid in any year shall be determined by the application of a percentage to the total compensation paid during said year, to persons who are members under section 8.544, said percentage to be the ratio of the value on July 1, 1945, or at the later date of a periodical actuarial valuation and investigation into the experience under the system of the benefits thereafter to be paid under this section, from contributions of the city and county, less the amount of such contributions, and plus accumulated interest thereon, then held by said system to provide said benefits on account of service rendered by respective members after the date stated in the sentence next preceding, to the value at said respective dates of salaries thereafter payable to said members. Said values shall be determined by the actuary, who shall take into account the interest which shall be earned on said contributions, the compensation experience of members, and the probabilities of separation by all causes, of members from service before retirement and of death after retirement. Said percentage shall be changed only on the basis of said periodical actuarial valuation and investigation into the experience under the system. Said actuarial valuation shall be made every even-numbered year and said investigation into the experience under the system shall be made every odd-numbered year.

(7) To promote the stability of the retirement system through a joint participation in the result of variations in the experience under mortality, investment and other contingencies, the contributions of both members and the city and county held by the system to provide the benefits under this section, shall be a part of the fund in which all other assets of said system are included. Nothing in this section shall affect the obligation of the city and county to pay to the retirement system any amounts which may or shall become due under the provisions of the charter prior to July 1, 1945, and which are represented on July 1, 1945, in the accounts of said system by debits against the city and county.

8.556 Right to Retire

Upon the completion of the years of service set forth in section 8.546 as requisite to retirement, a member of the police department shall be entitled to retire at any time thereafter in accordance with the provisions of said section 8.546, and nothing shall deprive said member of said right.

8.557 Limitation on Employment during Retirement

No person retired as a member under section 8.544 after June 30, 1945, for service or disability and entitled to receive a retirement allowance under the retirement system shall serve in any elective or appointive position in the city and county service, including membership on boards and commissions, nor shall such person receive any payment for service rendered to the city and county after retirement, provided that service as an election officer or juror shall not be affected by this section.

Part Seven: Provisions of Special Applications to the Police and Fire Departments

8.560 Definition, Members of Fire and Police Department

For the purpose of the retirement system, any officer or employee of the police or the fire departments whose employment therein began prior to January 1, 1900, or whose employment therein began on or shall begin after that date and was or shall be subject to a charter maximum age at the time of employment of not over thirty-five years, shall be considered to be a member of the police department or the fire department, respectively. Any fire or police service outside the limits of the city and county performed by a member of the retirement system and under orders of a superior officer of any such member, shall be considered as city and county service, and any disability or death incurred therein shall be covered under the provisions of the retirement system.

8.561 Pension Provisions—Dependent of Members of Fire and Police Departments Killed in Line of Duty

If a member of the fire or police departments, as defined in the charter for the purposes of the retirement system, or a member of the salvage corps in the fire department, or any person employed by the city and county to perform duties now performed under the titles of pilot of fireboats, marine engineer of fireboats, or marine fireman of fireboats, all of whom are hereinafter designated as members, shall die before or after retirement as a result of an injury received in, or illness caused by the performance of his duty, a

monthly allowance, in lieu of any allowance payable under any other section of the charter or by ordinance, shall be paid, beginning on the date next following the date of death, to his surviving wife throughout her life or until her remarriage. If the member, at the time of death, was qualified for service retirement, but had not retired, the allowance payable shall be equal to the retirement allowance which the member would have received if he had been retired for service on the day of death, but such allowances shall not be less than one-half of the average monthly compensation earnable by said member during the three years immediately preceding death, and if he had retired prior to death, the allowance payable shall be equal to the retirement allowance of the member. If death occurs prior to qualification for service retirement, the allowance payable shall be equal to the compensation of said member at the date of death, until the date upon which said member would have qualified for service retirement, had he lived and rendered service without interruption in the rank held by him at death, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date, based on the average monthly compensation he would have received during the three years immediately prior to said date, had he lived and rendered service as assumed, but such allowance shall not be less than one-half of such average monthly compensation. If there be no surviving wife entitled to an allowance hereunder, of if she die or remarry before every child of such deceased member attains the age of eighteen years, then the allowance which the surviving wife would have received had she lived and not remarried shall be paid to his child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of eighteen years. Should said member leave no surviving wife and no children under the age of eighteen years, but leave a parent or parents dependent upon him for support, the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving widow otherwise would have received, during such dependency. No allowance, however, shall be paid under this subsection to a surviving wife following the death of a member unless she was married to the member prior to the date of the injury or onset of the illness which results in death.

Benefits provided under this section shall be in lieu of all benefits payable under other sections of the charter upon death of such member resulting from an injury received in, or illness caused by the performance of duty, except the five hundred dollar benefit payable upon death after retirement.

Contributions to provide the allowance under this section shall be made to the San Francisco City and County Employees' Retirement System by the city and county. The amount of the contribution shall be determined and payment to the system shall be made in the same manner as contributions are determined and paid which are required for other benefits provided under the retirement system for the respective groups of members who are included under this section.

Notwithstanding any other provision of this charter, any member of the salvage corps in the fire department, or any person employed by the city and county to perform duties now performed under the titles of pilot of fire boats, marine engineer of fire boats, or marine fireman of fire boats, who becomes incapacitated for performance of his duty by reason of any bodily injury received in or illness caused by the performance of his duty, shall receive the same benefits as members of the fire department who are members of the retirement system under section 8.567 of the charter.

8.562 Credit for Service in Underwriters' Fire Patrol

Any person who is a member under section 8.568 on February 1, 1970, and who was employed in the uniformed force of the Underwriters' Fire Patrol of San Francisco prior to becoming such a member shall have the right to elect to make contributions pursuant to this section and to receive credit as service under the retirement system for all or any part of the time he was so employed.

Said election shall be made in writing on a form provided by the retirement system and filed with the retirement board within ninety (90) days after February 1, 1970.

Any such member who elects to make contributions and receive such credit shall contribute to the retirement fund an amount equal to the sum of (a) contributions computed by applying the rate of contribution applicable to him on the date he elected to receive credit for such service to the monthly compensation earnable by him on said date multiplied by the number of months of such service for which he has elected to receive credit and (b) interest on the unpaid balance of said contributions, commencing on the date of the member's election to make such contributions, at the rate of interest currently being used from time to time under the retirement system.

Payment of the contributions required by this section shall be made in a lump sum or by installment payments. Installment payments shall be made at times and in a manner fixed by the retirement board, provided that the period for completion of such payments shall not extend beyond the effective date of the member's retirement.

Upon completion of payment of contributions in the amount

specified in this section, the member shall be credited with service under the retirement system in an amount equal to the service for which he has elected to receive credit pursuant to this section. The service with which the member is so credited shall be credited as current service.

Part Eight: Provisions of Special Application to the Fire Department

8.565 Members of Fire Department on January 8, 1932

Persons who are members of the fire department on the 8th day of January, 1932, shall become members of the retirement system on that date, subject only to the following provisions, in addition to the provisions contained in sections 3.670-3.672, 8.500-8.502, 8.510, 8.511, 8.520, and 8.560 of this charter.

(a) Any member of the fire department who shall have completed twenty-five years of continuous service as a member of the fire department next preceding the date of his retirement, or any member of the fire department who shall have reached the age of fifty-five years and shall have completed twenty years of continuous service as a member of the fire department next preceding the date of his retirement, may retire from service at his option. Any member of the fire department who shall become physically disabled by reason of any bodily injury received in the performance of his duty may be retired from service on satisfactory proof thereof. The retirement board, by unanimous vote, may retire from service any aged, disabled or infirm member of the fire department who has arrived at the age of sixty years and who has completed twenty years of continuous service as a member of the department next preceding such age, who may be ascertained to be, by reason of such age, infirmity or other disability, unfit for the performance of his duties. Such retired member shall receive a monthly pension, payable throughout his life, equal to one-half the amount of the salary attached to the rank held by him three years prior to the date of his retirement hereinafter referred to as "pension" in this and the following section; provided that where such retirement is based on disability alone, in case the disability of such member shall cease, his pension shall cease, and he shall be restored to service in the rank he occupied at the time of his retirement. Should any said retired member die leaving a widow, who shall have been married to the decedent at least one year prior to the date of his retirement, such widow shall, as long as she may live and remain unmarried, be paid said pension; provided, further, that should said widow die leaving a child or children under the age of sixteen years, said pension shall

continue to be paid such child or such children collectively until the youngest child arrives at the age of sixteen years; and provided, further, that should said retired member die leaving no widow but leaving an orphan child or children under the age of sixteen years, such child or children collectively shall receive said pension until the youngest child attains the age of sixteen years.

(b) The family of any member of the fire department who shall die as a result of any injury received during the performance of his duty, or from sickness clearly, unmistakably and directly caused by and resulting from the discharge of such duty, or while eligible for a pension on account of years of service in the department, or who has served twenty consecutive years in the department and attained the age of fifty-five years, shall receive the following benefits:

First, should the decedent leave a widow to whom he was married prior to the date of the injury resulting in death, his widow shall, as long as she may live and remain unmarried, be paid a monthly pension equal to one-half of the salary attached to the rank held by the decedent at the time of his said injury, provided, however, that should said widow die, leaving a child or children under the age of sixteen years, said pension shall continue to such child or children collectively until the youngest child arrives at the age of sixteen years.

Second, should the decedent leave no widow, but leave an orphan child or children under the age of sixteen years, such child or such children collectively shall receive said pension until the youngest child attains the age of sixteen years.

Third, should the decedent leave no widow and no orphan child or children, but leave a parent or parents dependent solely upon him for support, such parents so depending shall collectively receive said pension during such time as the retirement board may unanimously determine its necessity.

(c) When any member of the department shall die from natural causes and before retirement, and when no pension is payable to his widow or children, there shall be paid to his estate or beneficiary a death benefit, the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system.

Upon the death of a member after retirement and regardless of the cause of death, a death benefit shall be paid to his estate or designated beneficiary, the amount of which and the conditions for payment of which shall be determined in the manner prescribed by the board of supervisors for the payment of a similar death benefit upon the death of other retired members.

(d) In addition to the other contributions required of the city and county under the retirement system, the city and county shall contribute to the retirement system during each fiscal year a sum which shall be equal to the liabilities accruing under the retirement system because of service rendered during such year by persons becoming members on the 8th day of January, 1932, under this section. If, subsequent to such fiscal year, it shall be determined that such contribution by the city and county was not sufficient to meet such liability, then the city and county shall make such additional contribution as may be necessary to make up the deficit.

(e) No benefits shall be provided under the retirement system for, nor shall any contributions be required of, persons who become members of the retirement system under this section, in addition to the benefits specifically provided and contributions specifically required in such section. Any pension payable because of the death or retirement of any such person shall be reduced in the manner fixed by the board of supervisors, by the amount of any benefits payable to or on account of such person, under the Workmen's Compensation Insurance and Safety Law of the State of California.

(f) Persons who are members of the fire department on the 8th day of January, 1932, shall have the option, to be exercised in writing on or before the 1st day of July, 1932, of becoming members of the retirement system under the provisions of section 8.567, which applies to persons who become members of the department after the 8th day of January, 1932. If such persons shall affirmatively exercise such option within the time specified, then they shall not receive any benefit under this section, but shall become members of the retirement system and shall receive benefits and make contributions on the same basis as persons who become members of the department after the 8th day of January, 1932, provided that a pension for each person affirmatively exercising such option shall be payable on account of service rendered to the city and county prior to the 8th day of January, 1932, by contributions of the city and county, which pension shall be the same percentage, regardless of the age of retirement, of his final compensation, as defined by the board of supervisors, for each year of service, as the contributions of the member and the city and county are calculated to provide upon retirement at age fifty-five for each year of service rendered as a member of the retirement system.

8.566 Fire Department–Retired Members and Beneficiaries on January 8, 1932

Any member of the fire department who shall have been retired on or after January 21, 1925, or prior to January 1, 1900, and shall

be receiving a pension on the 8th day of January, 1932, and any widow, child, children or parents of a deceased member of the department who shall be receiving a pension on the 8th day of January, 1932, shall continue to receive such pension subject to the provisions of section 8.565 governing the payment of pensions to retired members, widows, children and parents. Any member of the fire department who shall have been retired on or after the 1st day of January, 1900, and prior to the 21st day of January, 1925, and shall be receiving a pension on the 8th day of January, 1932, shall continue to receive such pension throughout his life, subject to the provisions of section 8.565 governing the payment of pensions granted because of disability incurred in the performance of duty, including the payment of such pension to widows, children and parents of deceased members who had been retired because of such disability. Such pensions shall be paid by the retirement system, but no other benefits shall be provided for such retired members, widows, children or parents; except that upon the death of any such member who is receiving a pension under this section and regardless of the cause of death, a death benefit shall be paid to his estate or designated beneficiary, the amount of which shall be determined in the manner prescribed by the board of supervisors.

8.567 Members of the Fire Department– January 8, 1932 to July 1, 1949

Persons who become members of the fire department after the 8th day of January, 1932 and prior to July 1, 1949, shall become members of the retirement system subject only to the following provision in addition to the provisions contained in sections 3.670-3.672, 8.500-8.502, 8.510, 8.511, 8.520, 8.525 and 8.560 of this charter. No member of the retirement system shall be retired, except in case of disability incapacitating him for the performance of his duties, unless he shall have attained the age of fifty-five years and completed twenty years of continuous service, except that retirement shall be compulsory at the age of seventy years. It may be provided, however, under such retirement system, that members may retire after thirty years of continuous service; the benefits at retirement in such cases to be determined, because of retirement at an age below fifty-five, in accordance with the tables recommended by the actuary and approved by said retirement board.

8.568 Member of the Fire Department After July 1, 1949

Members of the fire department, as defined in section 8.569, who are members of the retirement system under sections 8.507, 8.509, or 8.567 of the charter on the first day of July, 1949, and persons

who become members of said department after said date, shall be members of the retirement system under this section 8.568 on and after said date, and shall be subject to the following provisions of section 8.568 and sections 8.569, 8.570, 8.571, 8.572, 8.573, 8.575, 8.576, 8.577, 8.578, 8.579, 8.580, 8.581 in addition to the provisions contained in sections 3.670-3.672, 8.500-8.504, 8.506, 8.510 and 8.520 of this charter notwithstanding the provisions of any other section of the charter. Members of the said department who are members of the retirement system under sections 8.507 or 8.509 of the charter, on July 1, 1950, however, shall have the option to be exercised in writing, on a form furnished by the retirement system and to be filed at the office of said system not later than ninety days after said date, of being members of the system under sections 8.507 or 8.509 instead of section 8.568, the election under said option to be effective on said date, provided, that members who are absent by reason of service in the armed forces of the United States or by reason of any other service included in section 8.520 of the charter, on July 1, 1949, shall have the same option of electing to be members under sections 8.507 or 8.509, as the case may be, instead of section 8.568 until ninety days after their return to service in the fire department. On and after said date the persons who affirmatively exercise said option, shall continue to be members of the system under section 8.507 or 8.509, respectively, and shall not be subject to any of the provisions of section 8.568.

8.569 Definitions

The following words and phrases as used in this section, unless a different meaning is plainly required by the context, shall have the following meaning:

"Retirement allowance," "death allowance" or "allowance," shall mean equal monthly payments, beginning to accrue upon the date of retirement, or upon the day following the date of death, as the case may be, and continuing for life unless a different term of payment is definitely provided by the context.

"Compensation," as distinguished from benefits under the Workmen's Compensation Insurance and Safety Act of the State of California, shall mean the remuneration payable in cash, by the city and county, without deduction except for absence from duty, for time during which the individual receiving such remuneration is a member of the fire department, but excluding remuneration paid for overtime.

"Compensation earnable" shall mean the compensation which would have been earned had the member received compensation without interruption throughout the period under consideration and

at the rates of remuneration attached at that time to the ranks or positions held by him during such period, it being assumed that during any absence he was in the rank or position held by him at the beginning of the absence, and that prior to becoming a member of the fire department, he was in the rank or position first held by him in such department.

"Benefit" shall include "allowance," "retirement allowance," "death allowance" and "death benefit".

"Final compensation" shall mean the monthly compensation earnable by a member at the time of his retirement, or death before retirement, as the case may be, at the rate of remuneration attached at that time to the rank or position which said member held, provided that said member has held said rank or position for at least one year immediately prior to said retirement or death; and provided, further, that if said member has not held said rank or position for at least one year immediately prior to said retirement or death, "final compensation," as to such member, shal mean the monthly compensation earnable by such member in the rank or position next lower to the rank or position which he held at the time of retirement or death at the rate of remuneration attached at the time of said retirement or death to said next lower rank or position; provided, however, that in the case of a member's death before retirement as the result of a violent traumatic injury received in the performance of his duty, "final compensation," as to such member shall mean the monthly compensation earnable by such member at the rate of remuneration attached on the date he receives such injury to the rank or position held by such member on that date.

The amendment of the definition of "final compensation" contained in the proposition therefor submitted to the electorate on June 6, 1972, shall be retroactive and shall be applicable to any death allowance first effective on or after July 1, 1971. Said amendment does not and shall not increase any death allowance first in effect prior to July 1, 1971, nor shall said amendment give any person receiving a death allowance, or his successors in interest any claim against the city and county for any increase in any death allowance paid or payable for time prior to July 1, 1971.

For the purpose of the retirement system and of this section, the terms "member of the fire department," "member of the Department," or "member" shall mean any officer or employee of the fire department, excluding such officers and employees as are members of the retirement system under section 8.565 of the charter, who was or shall be subject to the charter provisions governing entrance requirements of members of the uniformed force of said department,

and said terms further shall mean, from the effective date of their employment in said department, persons employed on July 1, 1949, regardless of age, or employed after said date at an age not greater than the maximum age then prescribed for entrance into employment in said uniformed force, to perform the duties not performed by members of the salvage corps in the fire department, or duties now performed under the titles of pilot of fireboats, marine engineer of fire boats, marine fireman of fireboats, or hydrant-gateman. Any fire service performed by such member of the fire department outside the limits of the city and county and under orders of a superior officer of any such member, shall be considered as city and county service, and any disability or death incurred therein shall be covered under the provisions of the retirement system.

"Retirement system" or "system" shall mean San Francisco City and County Employees' Retirement System as created in section 8.500 of the charter.

"Retirement board" shall mean "retirement board" as created in Section 3.670 of the charter.

"Charter" shall mean the charter of the City and County of San Francisco.

Words used in the masculine gender shall include the feminine and neuter genders, and singular numbers shall include the plural and the plural the singular.

"Interest" shall mean interest at the rate adopted by the retirement board. *(Amended 1972)*

8.570 Service Retirement

Any member of the fire department who completes at least twenty-five years of service in the aggregate and attains the age of fifty (50) years, said service to be computed under section 8.578, may retire for service at his option. Members shall be retired on the first day of the month next following the attainment by them of the age of sixty-five years. A member retired after meeting the service and age requirements in the two sentences next preceding, shall receive a retirement allowance equal to fifty-five percent of the final compensation of said member, as defined in section 8.569 plus an allowance at the rate of three percent of said final compensation, for each year of service rendered after qualifying as to age and service for retirement; provided, however, that such retirement allowance shall not exceed seventy percent of said member's final compensation. A member retired after attaining the age of sixty-five years, but before completing twenty-five years of service in the aggregate computed under section 8.578, shall receive a retirement allowance which bears the same ratio to fifty percent of the final compensation of said

member, as defined in section 8.569, as the service with which he is entitled to be credited, bears to twenty-five years. If, at the rate of retirement for service, or retirement for disability resulting from an injury received in performance of duty, said member has no wife, children or dependent parents, who would qualify for the continuance of the allowance after the death of said member, or with respect to the portion of the allowance which would not be continued regardless of dependents, or upon retirement for disability resulting from other causes, with respect to all of the allowance and regardless of dependents at retirement, a member retired under this section, or section 8.571, may elect before the first payment of the retirement allowance is made, to receive the actuarial equivalent of his allowance or the portion which would not be continued regardless of dependents, as the case may be, partly in a lesser allowance to be received by him throughout his life, and partly in other benefits payable after his death to another person or persons, provided that such election shall be subject to all the conditions prescribed by the board of supervisors to govern similar election by other members of the retirement system, including the character and amount of such other benefits.

8.571 Retirement for Incapacity

Any member of the fire department who becomes incapacitated for the performance of his duty by reason of any bodily injury received in, or illness caused by performance of his duty, shall be retired. If he is not qualified for service retirement, he shall receive a retirement allowance in an amount which shall be equal to the same percentage of the final compensation of said member, as defined in section 8.569, as his percentage of disability is determined to be. The percentage of disability shall be as determined by the Workmen's Compensation Appeals Board of the State of California upon referral from the retirement board for that purpose; provided that the retirement board may, by five (5) affirmative votes, adjust the percentage of disability as determined by said Appeals Board; and provided, further, that such retirement allowance shall be in an amount not less than fifty percent nor more than ninety percent of the final compensation of said member, as defined in section 8.569. Said allowance shall be paid to him until the date upon which said member would have qualified for service retirement had he lived and rendered service without interruption in the rank held by him at retirement, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date based on the final compensation, as

defined in section 8.569, he would have received immediately prior to said date, had he lived and rendered service as assumed, but such allowance shall not be less than fifty-five percent of such final compensation.

If at the time of retirement because of disability, he is qualified as to age and service for retirement under section 8.570 he shall receive an allowance equal to the retirement allowance which he would receive if retired under section 8.570, but not less than fifty-five percent of said final compensation. Any member of the fire department who becomes incapacitated for performance of his duty, by reason of a cause not included under the provisions of the immediately preceding sentences, and who shall have completed at least ten years of service in the aggregate, computed as provided in section 8.578, shall be retired upon an allowance of one and one-half percent of the final compensation of said member as defined in section 8.569 for each year of service, provided that said allowance shall not be less than thirty-three and one-third percent of said final compensation. The question of retiring a member under this section may be brought before the retirement board on said board's own motion, by recommendation of the fire commission, or by said member or his guardian. If his disability shall cease, his retirement allowance shall cease, and he shall be restored to the service in the rank he occupied at the time of his retirement.

8.572 Death Allowance

If a member of the fire department shall die before or after retirement by reason of an injury received in, or illness caused by the performance of his duty, a death allowance, in lieu of any allowance payable under any other section of the charter or by ordinance, on account of death resulting from injury received in or illness caused by the performance of duty, shall be paid, beginning on the date next following the date of death, to his surviving wife throughout her life or until her remarriage. If the member, at the time of death, was qualified for service retirement, but had not retired, the allowance payable shall be equal to the retirement allowance which the member would have received if he had been retired for service on the day of death, but such allowances shall not be less than fifty-five percent of the final compensation earnable by said member immediately preceding death. If death occurs prior to qualification for service retirement, the allowance payable shall be equal to the final compensation of said member at the date of death, until the date upon which said member would have qualified for service retirement, had he lived and rendered service without interruption in the rank held by him at death, and after said date the allowance payable shall be equal to the

retirement allowance said member would have received if retired for service on said date, based on the final compensation he would have received immediately prior to said date, had he lived and rendered service as assumed, but such allowance shall not be less than fifty-five percent of such monthly final compensation. If he had retired prior to death, for service or for disability resulting from injury received in, or illness caused by the performance of duty, the allowance payable shall be equal to the retirement allowance of the member, except that if he was a member under section 8.568 and retirement was for such disability, and if death occurred prior to qualification for the service retirement allowance, the allowance continued shall be reduced upon the date at which said member would have qualified for service retirement, in the same manner as it would have been reduced had the member not died. If there be no surviving wife entitled to an allowance hereunder, or if she die or remarry before every child of such deceased member attains the age of eighteen years, than the allowance which the surviving wife would have received had she lived and not remarried shall be paid to his child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of eighteen years. Should said member leave no surviving wife and no children under the age of eighteen years, but leave a parent or parents dependent upon him for support, the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving widow otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving wife following the death of a member unless she was married to the member prior to the date of the injury or onset of the illness which results in death.

8.573 Payment to Surviving Dependents

Upon the death of a member of the fire department resulting from any cause, other than an injury received in or illness caused by performance of duty, (a) if his death occurred after qualification for service retirement, under section 8.570, or after retirement for service or because of disability which resulted from any cause other than an injury received in, or illness caused by performance of duty, three-fourths of his retirement allowance to which the member would have been entitled if he had retired for service at the time of death or three-fourths of the retirement allowance as it was at his death, as the case may be, shall be continued throughout life or until remarriage, to his surviving wife, or (b) if his death occurred after retirement for disability by reason of injury received in or illness

caused by performance of duty, his retirement allowance as it was at his death shall be continued throughout life or until remarriage, to his surviving wife, except that, if death occurred prior to qualification for service retirement allowance, the allowance continued shall be adjusted upon the date of which said member would have qualified for service retirement, in the same manner as it would have been adjusted had the member not died, or (c) if his death occurred after completion of at least ten years of service in the aggregate, computed as provided in section 8.578; an allowance in an amount equal to the retirement allowance to which the member would have been entitled pursuant to section 8.571 if he had retired on the date of death because of incapacity for performance of duty resulting from a cause other than bodily injury received in or illness caused by performance of duty shall be paid throughout life or until remarriage to his surviving wife. If there be no surviving wife entitled to an allowance hereunder, or if she die or remarry before every child of such deceased member attains the age of eighteen years, then the allowance which the surviving wife would have received had she lived and not remarried shall be paid to his child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of eighteen years. Should said member leave no surviving wife and no children under age of eighteen years, but leave a parent or parents dependent upon him for support, the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving wife otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving wife unless she was married to the member prior to the date of the injury or onset of the illness which results in death if he had not retired, or unless she was married to the member at least one year prior to his retirement.

As used in this section and section 8.572, "surviving wife" shall mean and include a surviving spouse, and shall also mean and include a spouse who has remarried since the death of the member but whose remarriage has been terminated by death, divorce or annulment within five years after the date of such remarriage and who has not thereafter again remarried.

The surviving wife, in the event of death of the member after qualification for but before service retirement, may elect before the first payment of the allowance, to receive the benefit provided in section 8.576, in lieu of the allowance which otherwise would be continued to her under this section. If there be no surviving wife, the guardian of the child or children under age eighteen, may make such election, and if there be no such children, the dependent parent or

parents may make such election. Persons heretofore retired under charter section 8.567 as members of the fire department, at the time of retirement shall be subject to the provisions of this section. "Qualified for service retirement," "Qualification for service retirement" or "Qualified as to age and service for retirement," as used in this section and other sections to which persons who are members under section 8.568 are subject, shall mean completion of twenty-five years of service and attainment of age fifty, said service to be computed under section 8.578.

8.574 Adjustment of Allowances

Every allowance based on the average monthly compensation earnable by the member during the ten years prior to retirement, and payable for time commencing on February 1, 1957, to or on account of persons who were retired, as members under section 8.567, for disability resulting from bodily injury received in the performance of duty, shall be adjusted to the amount it would be, if it had been based on the monthly compensation fixed by the board of supervisors as of July 1, 1956, for the rank or position held by such retired member in the fire department prior to retirement. This section does not authorize any decrease in any allowance from the amount being paid as of February 1, 1957, nor does this section give any retired member, or any beneficiary of such member, or his successors in interest, any claim against the city and county for any increase in any allowance paid or payable for the time prior to February 1, 1957. Adjustment in reserves under allowances which are changed according to this section, shall be made on the basis of current interest rate and mortality tables.

The increase in the retirement allowance shall be apportioned according to service rendered by the member in the same manner that the allowance prior to increase was apportioned. Contributions to the retirement system, necessary for the payment of the increase of the portion of the retirement allowances which is paid from reserves held by the retirement system, shall be provided from the reserves held by the retirement system on account of members under section 8.568, the necessary amount being transferred upon February 1, 1957, from said reserves to the reserves held by the retirement system to meet the obligations on account of benefits that have been granted and on account of prior service of members. The contribution being required of the city and county currently, as a percentage of salaries of persons who are members under section 8.568, shall be increased to a percentage determined by the actuary as necessary to replace the reserves so transferred. Contributions to the retirement system necessary for the payment of said increases with reference to

current and prior service portions of the allowances which are not paid from reserves held by the retirement system, shall be paid to the system by the city and county by annual appropriations, provided that such appropriation for any year shall not be less than the amount disbursed during that year on account of said increases.

8.575 Adjustment for Compensation Payments

That portion of any allowance payable because of the death or retirement of any member of the fire department which is provided by contributions of the city and county, shall be reduced in the manner fixed by the board of supervisors, by the amount of any benefits other than medical benefits, payable to or on account of such person, under the Workmen's Compensation Insurance and Safety Law of the State of California and because of the injury or illness resulting in said death or retirement. Such portion which is paid because of death or retirement which resulted from injury received in or illness caused by performance of duty, shall be considered as in lieu of all benefits, other than medical benefits, payable to or on account of such person under said law of the State of California and shall be in satisfaction and discharge of the obligation of the city and county to pay such benefits.

8.576 Death Benefit

If a member of the fire department shall die, before retirement, from causes other than an injury received in or illness caused by the performance of duty, or regardless of cause, if no allowance shall be payable under section 8.572 or 8.573 preceding, a death benefit shall be paid to his estate or designated beneficiary, the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system. Upon the death of a member after retirement and regardless of the cause of death, a death benefit shall be paid to his estate or designated beneficiary the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system.

8.577 Refunds and Redeposits

Should any member of the fire department cease to be employed as such a member, through any cause other than death or retirement or transfer to another office or department, all of his contributions, with interest credited thereon, shall be refunded to him subject to the conditions prescribed by the board of supervisors to govern similar terminations of employment of other members of the

retirement system. If he shall again become a member of the department, he shall redeposit in the retirement fund, the amount refunded to him. Contributions, with interest, which are credited because of service rendered in any other office or department and which will not be counted under section 8.578, to any person who becomes a member of the retirement system under this section, shall be refunded to him forthwith. Should a member of the fire department become an employee of any other office or department, his accumulated contribution account shall be adjusted by payments to or from him as the case may be to make the accumulated contributions credited to him at the time of change, equal to the amount which would have been credited to him if he had been employed in said other office or department at the rate of compensation received by him in the fire department and he shall receive credit for service for which said contributions were made, according to the charter section under which his membership in the retirement system continues.

8.578 Computation of Service

The following time shall be included in the computation of the service to be credited to a member of the fire department for the purposes of determining whether such member qualified for retirement, and calculating benefits, excluding, however, any time, the contributions for which were withdrawn by said member upon termination of his service while he was a member under any other charter section, and not redeposited upon re-entry into service:

(1) Time during and for which said member is entitled to receive compensation because of services as a member of the fire or police department.

(2) Time during which said member is entitled to receive compensation while a member of the retirement system, because of service rendered in other offices and departments prior to July 1, 1949, provided that accumulated contributions on account of such service, previously refunded, are redeposited, with interest from date of refund to date of redeposit, at times and in the manner fixed by the retirement board; and solely for purpose of determining qualification for retirement under section 8.571 for disability not resulting from injury received in, or illness caused by performance of duty, time during which said member serves, after July 1, 1949, and receives compensation because of services rendered in other offices and departments.

(3) Time during which said member is absent from a status included in paragraphs (1) and (2) next preceding, by reason of service in the armed forces of the United States of America, or by

reason of any other service included in section 8.520 of the charter, during any war in which the United States was or shall be engaged or during other national emergency, and for which said member contributed or contributes to the retirement system or for which the city and county contributed or contributes on his account.

8.579 Sources of Funds

All payments provided for members under section 8.668 shall be made from funds derived from the following sources, plus interest earned on said funds:

(1) The normal rate of contribution of each member under this section shall be based on his age taken to the next lower complete quarter year, (a) at the earlier of the dates he became a member under section 8.507, 8.509 or 8.567, in the case of persons who are members under these sections, or (b) on his age at the date he becomes a member under section 8.568 in the case of persons who become members on or after July 1, 1949, without credit for service counted under section 8.578. The age of entrance into the fire department shall be determined by deducting the member's service credited under section 8.578 as rendered prior to the date upon which his age is based for determination of his rate of contribution according to the sentence next preceding, from said age. The normal rate of contribution of each such member, to be effective from the effective date of membership under section 8.568, shall be such as, on the average for such member, will provide, assuming service without interruption, under section 8.570, one-third of that portion of the service retirement allowance to which he would be entitled, without continuance to dependents, upon first qualifying as to age and service, for retirement under that section, which is based on service rendered after the date upon which his age is based for determination of his rate of contribution according to the first sentence in this paragraph, and assuming the contribution to be made from that date. The normal rate of contribution, however, shall not exceed six percent.

(2) The dependent contributions of each member under this section which shall be required of each member throughout his membership in addition to the normal contributions, and in the same manner as normal contributions, shall be such as, on the average for such member, will provide, assuming service without interruption under section 8.570, and upon his first qualifying as to age and service for retirement under that section, one-third of the portion of his allowance, which is to be continued under section 8.573 after his death and throughout the life of a surviving wife whose age at said death is three years less than the age of said member. If, at the date

of retirement for service or retirement for disability resulting from injury received in performance of duty, said member has no wife who would qualify for the continuance of the allowance to her after the death of said member, or upon retirement for disability resulting from other causes, regardless of his marital condition, the dependent contributions with accumulated interest thereon, shall be paid to him forthwith. The dependent rate of contribution, however, shall not exceed the difference between six percent and the member's normal rate of contribution, and said dependent rate may be taken as a flat percentage of the member's normal rate, regardless of the age of qualification for service retirement.

(3) There shall be deducted from each payment of compensation made to a member under this section, a sum determined by applying the member's rates of contribution to such compensation payment. The sum so deducted shall be paid forthwith to the retirement system. Said contribution shall be credited to the individual account of the member from whose salary it was deducted, and the total of said contributions, together with interest credited thereon in the same manner as is prescribed by the board of supervisors for crediting interest to contributions of other members of the retirement system, shall be applied to provide part of the retirement allowance granted to, or allowance granted on account of said member, or shall be paid to said member or his estate or beneficiary as provided in sections 8.576, 8.577 and 8.578.

(4) Contributions based on time included in paragraphs (1), (2) and (3) of section 8.578, and deducted prior to July 1, 1949, from compensation of persons who become members under section 8.568, and standing with interest thereon, to the credit of such members on the records of the retirement system on said date, shall continue to be credited to the individual accounts of said members and shall be combined with and administered in the same manner as the contributions deducted after said date.

(5) The total contributions, with interest thereon, made by or charged against the city and county and standing to its credit, in the accounts of the retirement system, on account of persons who become members under section 8.568, shall be applied to provide the benefits under said section.

(6) The city and county shall contribute to the retirement system such amounts as may be necessary, when added to the contributions referred to in the preceding paragraphs of this section 8.579, to provide the benefits payable under this section. Such contributions of the city and county to provide the portion of the benefits hereunder which shall be based on service rendered by each member prior to the date upon which his age is based for determination of his

rate of contribution in paragraph (1) section 8.579, shall not be less during any fiscal year than the amount of such benefits paid during said year. Such contributions of the city and county to provide the portion of the benefits hereunder which shall be based on service rendered by respective members on and after the date stated in the next preceding sentence, shall be made in annual installments, and the installment to be paid in any year shall be determined by the application of a percentage to the total compensation paid during said year, to persons who are members under section 8.568, said percentage to be the ratio of the value on July 1, 1949, or at the later date of a periodical actuarial valuation and investigation into the experience under the system, of the benefits thereafter to be paid under this section, from contributions of the city and county, less the amount of such contributions, and plus accumulated interest thereon, then held by said systems to provide said benefits on account of service rendered by respective members after the date stated in the sentence next preceding, to the value of said respective dates of salaries thereafter payable to said members. Said values shall be determined by the actuary, who shall take into account the interest which shall be earned on said contributions, the compensation experience of members, and the probabilities of separation by all causes, of members from service before retirement and of death after retirement. Said percentage shall be changed only on the basis of said periodical actuarial valuation and investigation into the experience under the system. Said actuarial valuation shall be made every even-numbered year and said investigation into the experience under the system shall be every odd-numbered year.

(7) To promote the stability of the retirement system through a joint participation in the result of variations in the experience under mortality, investment and other contingencies the contributions of both members and the city and county held by the system to provide the benefits under this section, shall be a part of the fund in which all other assets of said system are included. Nothing in this section shall affect the obligations of the city and county to pay to the retirement system any amounts which may or shall become due under the provisions of the charter prior to July 1, 1949, and which are represented on said effective date, in the accounts of said system by debits against the city and county.

8.580 Right to Retire

Upon the completion of the years of service set forth in section 8.570 as requisite to retirement, a member of the fire department shall be entitled to retire at any time thereafter in accordance with the provisions of said section 8.570, and nothing shall deprive said member of said right.

8.581 Limitation on Employment during Retirement

No person retired as a member under section 8.568 for service or disability and entitled to receive a retirement allowance under the retirement system shall serve in any elective or appointive position in the city and county service, including membership on boards and commissions, nor shall such person receive any payment for service rendered to the city and county after retirement, provided that service as an election officer or juror shall not be affected by this section.

Notwithstanding any provision in this charter to the contrary, should any such retired person engage in a gainful occupation prior to attaining the age of sixty, the retirement board shall reduce that part of his monthly retirement allowance which is provided by contributions of the city and county, to an amount which, when added to the amount earned monthly by him in such occupation, shall not exceed the amount of the compensation earnable at the time he engages in the gainful occupation, by the member if he then held the position which he held at the time of his retirement, or, if that position has been abolished, the compensation earnable by the member if he held the position from which he was retired, immediately prior to its abolition.

ARTICLE IX

ELECTIONS

9.100 Elective Officers and Terms

The mayor, the members of the board of supervisors, an assessor, a district attorney, a city attorney, a sheriff, a treasurer, a public defender, and commencing with a special municipal election to be consolidated with the direct primary in 1972, the members of the board of education shall be elected at large by the voters of the city and county.

At the general municipal election in 1943, and at the general municipal election in every fourth year thereafter, there shall be elected a mayor, six supervisors, a district attorney and a sheriff, and at the general municipal election in 1945, and at the general municipal election in every fourth year thereafter, there shall be elected five supervisors, a city attorney, and a treasurer, and at the general election in 1942, and at the general election in every fourth year thereafter there shall be elected an assessor and a public defender. At a special municipal election to be consolidated with the direct primary in 1972, seven members of the board of education

shall be elected at large. All of the aforesaid officials except as set forth herein, shall be elected for a term of four years, from the commencement of their respective terms as herein specified.

The respective terms of the members of the board of education who shall hold office on the 8th day of August, 1972, shall expire at twelve o'clock noon on said date, and the persons elected as members of the board of education at a special municipal election to be consolidated with the direct primary in 1972 shall succeed to said offices at twelve o'clock noon on said 8th day of August, 1972. The respective terms of office of the members of the board of education elected at a special municipal election to be consolidated with the direct primary in 1972, shall be as follows: The four members receiving the highest number of votes respectively at said election shall hold office for a term consisting of the period of time until the 8th day of January, 1977; the three members receiving the next highest number of votes respectively at said election shall hold office for a term of consisting of the period of time until the 8th day of January, 1975. Thereafter the term of each member elected to the board of education shall be four years from the commencement of his term as herein specified.

At the general election in 1974 there shall be elected three members of the board of education to succeed those members thereof whose respective terms of office expire on the 8th day of January, 1975, and at the general election in each fourth year after 1974, the successors to said three members of the board of education shall be elected, and at the general election in 1976 there shall be elected four members of the board of education to succeed those members thereof whose respective terms of office expire on the 8th day of January 1977, and at the general election in each fourth year after 1976, the successors to said four members of the board of education shall be elected. Except as set forth herein, all terms of office of elective officials shall commence at twelve o'clock noon on the 8th day of January following the date of their election.

No person elected as mayor or supervisor shall be eligible, for a period of one year after his last day of said service as mayor or supervisor, for appointment to any full time position carrying compensation in the city and county service.

9.101 Limit on Terms of Mayor

No person elected as mayor shall be eligible to serve, or serve, as such for more than two successive terms; but such service shall not disqualify any person for further service as mayor for any term or terms which are not successive, nor for any parts of terms which are not successive.

9.102 Registrar of Voters

The conduct, management and control of the registration of voters, and of the holding of elections, and of all matters pertaining to elections in the city and county shall be vested exclusively in the registrar of voters. He shall establish precincts in the city and county as provided by law. The regular and temporary forces under the registrar, and the temporary forces, shall be appointed by him subject to the civil service provisions of this charter.

9.103 Municipal Elections

On Tuesday after the first Monday in November in 1931 and every second year thereafter, there shall be held in the city and county an election to be known as the general municipal election, at which the electors of the city and county shall choose such officers as are required by this charter to be elected at that time. Special municipal elections shall be called by the registrar when required by this charter on the filing of appropriate initiative, referendum or recall petitions, as provided by this charter, and may be called by the supervisors for bond issues, declarations of policy, or for the voting on candidates for city and county offices not subject to election at general municipal elections.

All provisions of the general laws of this state, including penal laws, respecting the registration of voters, initiative, referendum and recall petitions, elections, canvass of returns and all matters pertinent to any and all of these, shall be applicable to the city and county except as otherwise provided by this charter or by ordinance adopted by the board of supervisors as authorized by this charter relative to any rights, powers or duties of the city and county or its officers. When not prohibited by general law, the supervisors by ordinance may provide that the publication of precincts and polling places shall be by posting only.

9.104 Nomination of Elective Officers

The name of a candidate for an elective office shall be printed upon the ballot when a declaration of candidacy, a nomination paper signed by not less than forty nominators and certificates of not less than twenty nor more than thirty sponsors shall have been filed on his behalf, and when the nomination shall have been made in the following manner: The candidate, not more than sixty days before the municipal election in November, shall file with the registrar a declaration of his candidacy, in the form prescribed by the registrar for all candidates, including statements of his qualifications in not to exceed one hundred words, subscribed by him before the registrar. The registrar shall forthwith certify to the said subscription and its

date and retain and file the declaration. The candidate shall pay to the registrar at the time of filing his declaration of candidacy a sum equal to two percent (2%) of the current annual salary for the office for which he is a candidate. After said declaration shall have been signed, certified and filed, and not later than forty-five days before said election in November a nomination paper, in the form prescribed by the registrar for all candidates, signed by not less than forty nominators for the said candidate, who are electors of the city and county qualified to vote at the said municipal election, shall be filed with the registrar and not less than twenty nor more than thirty sponsors for the said candidate, who are electors of the city and county qualified to vote at the said municipal election shall appear before the registrar and shall certify under oath to the qualifications of the said candidate on a form of certificate prescribed by the registrar for all sponsors of all candidates. The candidate shall have the right to reject any unsolicited sponsor.

In the event the registrar shall refuse to file such declaration of candidacy, nomination paper therefor or certificate of a sponsor thereof, he shall forthwith designate in writing on the declaration, nomination paper or certificate the defect thereof, or other reason for refusing to file the same, and shall return the same to the party tendering it. No defect in any declaration, nomination paper or certificate presented to the registrar shall prevent the filing of another declaration, nomination paper or certificate within the period allowed for presenting the declaration, nomination paper or certificate. The name of every candidate who has been duly and regularly nominated shall be placed on the ballot under the title of the office for which he is a candidate, provided that a candidate whose nomination has been completed, may, not less than forty days before a municipal election, withdraw as a candidate by filing with the registrar his withdrawal, naming the office; such withdrawal must be signed and sworn to by the person withdrawing.

The name of every candidate who has been nominated for office as hereinbefore provided shall be placed on the ballot in alphabetical order in accordance with the initial letter of his surname, under the heading of the office for which said candidate has been nominated in the following manner: The name of the candidate highest on the alphabetical list of candidates for any particular office shall be printed first on the ballot under the proper heading for said office in the lowest numbered assembly district in the city and county. Thereafter, in each succeeding assembly district, the name of the candidate appearing first for said office in the last preceding district shall be placed last and the order of the names of the other candidates for said office shall remain unchanged.

In the event that the number of candidates in any group shall exceed the number of assembly districts in the city and county, then the total number of candidates in such group shall be divided by the number of assembly districts and the quotient of said division, if an integral number, or, if it be a fractional number, then the next highest integral number, shall be the number of candidates to be taken from the beginning of the list of said candidates and placed at the end of said list of candidates in each succeeding assembly district.

Immediately under the name of each candidate and not separated therefrom by any line may appear, at the option of the candidate, one of the following designations:

(a) Words designating the city, county, district or state office which the candidate then holds.

(b) If the candidate be a candidate for the same office which he then holds, and only in that event, the word "incumbent."

(c) The word designating the profession, vocation or occupation of the candidate. The profession, vocation or occupation so designated shall be the same as appears in the affidavit of registration of the candidate.

In all cases words so used shall be printed in eight-point roman boldface capitals and lower-case type.

No incumbent shall have any further preference in the location of his name on said ballot unless the same is permitted by this section.

The registrar shall preserve in his office for a period of four years all candidates' declarations, nomination papers and all sponsors' certificates filed in accordance with this section.

9.105 Material on Candidates Mailed to Voters

The registrar shall, before each municipal election, cause to be printed in pamphlet form and mailed to each registered voter with the sample ballot, a copy of all statements of qualifications of candidates received by him, to be followed by the names and addresses and occupations of all sponsors of all officers to be voted for in said city and county.

The registrar shall cause ballots to be printed identical with the ballot to be used in each assembly district at the election and shall furnish copies of the same on application to registered voters at his office at least five days before the date fixed for such election, and shall mail to each voter entitled to vote on such election a copy of the ballot to be used in his district, so that all said sample ballots shall have been mailed at least eight days before said election. The rotation of names of candidates on ballots shall be as provided by general law.

9.106 Precinct Boards of Election

The registrar shall, at each municipal or special election, prepare lists for and appoint for each election precinct a precinct board of election officers to hold and conduct such election at the precinct for which said board is appointed. Such board shall consist of one inspector, one judge and two clerks, who shall perform all the duties required by law at such polling place, except as in this charter provided. When voting machines are used, one inspector and two judges shall be appointed. The general law as to the appointment of election officers shall apply when not otherwise provided herein. The registrar is authorized to withhold the pay of any election officer who neglects, disregards or violates the election laws.

9.107 Results of Election – Failure to Qualify

The canvass of voters, canvass of returns, declaration of election and certificate of election shall be made as provided by general law. If a person elected fails to qualify, the office shall be filled as in this charter provided for a vacancy in such office.

9.108 Initiative, Referendum, and Recall

The registered voters shall have power to propose by petition, and to adopt or to reject at the polls, any ordinance, act or other measure which is within the power conferred upon the board of supervisors to enact, or any legislative act which is within the power conferred upon any other board, commission or officer to adopt, or any amendment to the charter. Such ordinance, act, charter amendment or other measure may be so proposed by filing with the registrar a petition setting forth said measure in full, signed by registered voters of the city and county as many in number as the percentages hereinafter required of the entire vote for all candidates for the office of mayor cast at the last preceding regular municipal election.

Any declaration of policy may be submitted to the electors in the manner provided for the submission of ordinances; and when approved by a majority of the qualified electors voting on said declaration, it shall thereupon be the duty of the board of supervisors to enact an ordinance or ordinances to carry such policies or principles into effect, subject to the referendum provisions of this charter.

Any ordinance which the supervisors are empowered to pass may be submitted to the electors by a majority of the board at a general election or at a special election called for the purpose, said election to be held not less than thirty days from the date of the call. Any such ordinance may be proposed by one-third of the supervisors or

by the mayor, and when so proposed shall be submitted to the electors at the next succeeding general election. No ordinance passed by the supervisors granting any public utility franchise or privilege, shall go into effect until the expiration of sixty days from the date it becomes final. At the end of such sixty days such ordinance shall be in force and effect, unless within such period there shall be filed with the registrar a petition signed by registered voters equal in number to five percent of the entire vote cast for mayor at the last preceding regular municipal election, requesting that such ordinance be submitted to the electors. In case such petition is filed, such ordinance shall not go into effect until approved by a majority of the voters voting thereon at a general or special election.

If, before the time any other ordinance involving legislative matters becomes effective, there shall be filed with the board of supervisors a petition signed by qualified electors of the city and county equal in number to at least ten per centum of the entire vote cast for all candidates for mayor at the last preceding general municipal election at which a mayor was elected, protesting against the passage of such ordinance the same shall be suspended from going into operation, and it shall be the duty of the board of supervisors to reconsider such ordinance, and if the same be not entirely repealed, said board shall submit the ordinance to the vote of said electors either at the next general municipal election or at a special election to be called for that purpose, and such ordinance shall not go into effect or become operative unless and until a majority of the qualified electors voting thereon shall vote in favor thereof. The provisions of sections 9.109 and 9.110 of the charter shall apply to and govern the verification and certification of such petition.

Annual budget and appropriation ordinances, supplemental appropriation ordinances, the annual salary ordinance, or ordinances amending the same, the ordinances levying taxes, any ordinance appropriating money from the emergency reserve fund, ordinances authorizing the city attorney to compromise litigation, and ordinances necessary to enable the mayor to carry out any of the powers vested in him in the case of a public emergency as defined in section 3.100 of the charter, ordinances enacted pursuant to section 8.410 of the charter, as well as ordinances relative to purely administrative matters, shall not be subject to referendum.

Any elective official, the chief administrative officer, the controller or any member of the board of education or public utilities commission may be recalled by the electors. The procedure to effect such recall shall be as follows: A petition demanding the recall from office of the person sought to be recalled shall be filed with the

registrar. Said petition shall contain a statement of the grounds on which the recall is sought. Any insufficiency of form or substance in such statement shall in no wise affect the validity of the election and proceedings held thereunder. No recall petition shall be filed against any officer until he has held his office for at least six months.

9.109 Petitions

The filing, verification and certification of initiative, referendum and recall petitions shall be in accordance with general law, and rules and regulations of the registrar of voters relative to details not covered by general law, except as otherwise provided by this charter. Any signer to a petition may withdraw his name from the same by filing with the registrar of voters a verified revocation of his signature before the filing of the petition. No signature can be revoked after the petition has been filed. Unless and until it be proven otherwise by official investigation by the registrar, it shall be presumed that the petition filed conforms to all legal requirements and contains the signatures of the requisite number of registered voters, and after an election based thereon, the sufficiency of such petition shall not be questioned.

If any signature be questioned, the registrar shall mail notice to such purported signer, stating that his or her name is attached to such petition and citing him or her to appear before said registrar forthwith, naming the time and place. Said citation shall enclose a blank affidavit, which may be used to deny that the affiant signed such petition. If such person does not desire to attend in person, he may swear to such affidavit of denial before any officer authorized to take oaths, and mail the same to the registrar. If he does not so attend and deny such signature in person or by making and mailing such affidavit of denial before the time when the registrar must, under general law, make final determination, the signature to such petition must be treated as genuine. The registrar shall keep a list of the names of all purported signers who appear before him and deny their signature under oath, and also file and keep such affidavits for at least one year.

9.110 Special Election Fund

The board of supervisors shall maintain a fund of not less than fifty thousand dollars to be known as the special election fund, to be used exclusively for defraying the costs of verifying petitions and other expenses of all special elections initiated by petitions of the electorate, including recall elections. In the event of the expenditure of any of said fund, the board of supervisors in the next succeeding annual budget shall appropriate a sum sufficient to reimburse said special election fund.

9.111 Time of Election

If the petition accompanying a proposed initiative measure, declaration of policy, or recall be signed by registered voters equal in number to ten percent of the entire vote cast for mayor at the last preceding general municipal election and contains a request that said measure, policy or recall be submitted forthwith to a vote of the electorate at a special election, then the registrar shall forthwith call a special election, which shall be held at a date not less than thirty nor more than forty days from the date of calling the same, at which said measure or policy, without alteration, or said recall shall be sumitted to a vote of the electorate, unless within sixty days of a general or primary election, in which event it shall be submitted at such general or primary election.

If the petition accompanying a proposed initiative measure or declaration of policy be signed by registered voters equal in number to five percent but less than ten percent of the said entire vote, then such measure or measures, without alteration, shall be submitted by the registrar to a vote of the electorate at the next general state or municipal election that shall occur at any time after thirty days from the date of the certificate of sufficiency attached to the petition accompanying such measure unless the board of supervisors, by ordinance, direct that the measure or policy be voted on at a special election prior thereto.

9.112 Material on Measures Mailed to Voters

Whenever any measure is required by this charter to be submitted to the voters of the city and county at any election, the registrar shall cause the measure or policy to be printed on sheets measuring approximately six by nine inches, and shall mail the same with a sample ballot to each voter, at least five days prior to the election. This printed copy may be attached to any other matter required to be printed and mailed.

With or upon the sample ballot mailed to each voter prior to a recall election, there shall be transmitted the reasons for demanding the recall of the officer as set forth in the recall petition, printed in not more than three hundred words, and with or upon the same ballot the printed statement of the officer in not more than three hundred words justifying his course in office.

If the proposition be submitted to the registered voters upon an initiative, referendum or recall petition, the persons filing said petition shall have the right, upon deposit of an amount sufficient to defray the cost of printing as estimated by the registrar, to present to the registrar at any time not later than thirty-five days prior to said

election, written arguments favoring their petition, and the registrar shall not accept arguments favoring said petition without the approval of those filing said petition; provided that as to any proposition to be submitted to the voters at a special election in accordance with section 9.111 hereof, to be held within thirty-five days of the date of calling such election, such arguments may be presented to the registrar at any time twenty-five days prior to said election. If said proposition be submitted by the mayor or by the board of supervisors, or by one-third of the board of supervisors, they shall have a similar right, but without the making of such deposit, to present arguments. Should the mayor or four or more members of the board of supervisors desire to submit to the voters a negative argument concerning any proposition submitted by the mayor, the board of supervisors, or one-third of the board of supervisors, they shall have a similar right, but without the making of such deposit, to present such an argument. The board of supervisors may also in its discretion, by motion, grant to any proponents of propositions submitted by the board a similar right, which may be exercised, subject to the approval of such arguments by motion of the board and upon the making of such deposit. Any persons, committee or organization opposing the measure, policy, charter amendment, or recall placed before the voters may present, upon making a deposit as aforementioned, and in like manner and within the same time, written arguments opposing said proposition.

Said arguments shall not contain more than 1800 words, nor exceed four pages in length when printed. They shall be signed by the persons or the presiding or executive officials of the committee or organization presenting them. The registrar shall cause said arguments to be printed in a pamphlet approximately six by nine inches in size in one color of ink and in uniform style. They shall be arranged in numerical or alphabetical order according to the number or letter of the proposition to which they refer, and the affirmative in each case shall precede the negative. The registrar shall charge a uniform fee per page sufficient to cover the cost of printing said pamphlet, returning to depositors any excess of deposits. He shall mail one copy with the sample ballot to each voter.

Immediately after introduction in the board of supervisors, or filing with the clerk thereof, of any measure to be submitted to the voters, or of the filing of a petition of the voters for submission of any proposed amendment of the charter, in accordance with the provisions of Article XI, Section 3, of the Constitution of California, the clerk of the board shall deliver a copy of such proposition to the controller. The controller shall thereupon determine whether, in his opinion, such proposition, if adopted, will increase the cost of

government of the city and county or in any way affect its tax rate. The controller shall make a written statement thereon to the board of supervisors, analyzing such proposition as to its cost and effect upon the tax rate. Such statement shall be in form appropriate for mailing to the voters with a sample ballot. Upon vote of submission of any such proposition, which, in the opinion of the controller, will in any way affect the cost of government or the tax rate and as to all propositions to create a bonded debt, the controller shall transmit a copy of such statement in relation thereto to the registrar of voters, who shall mail one copy thereof to each voter with the sample ballot. In the pamphlet of arguments, the position of the statement of the controller shall in each instance be next in order after the negative argument.

9.113 Form of Ballot – Majority Vote

The ballots used when voting upon any proposed measure, referendum, policy, recall or confirmation shall contain a general statement thereof, followed by the words "Yes" and "No," so arranged that the voter may indicate his choice upon the ballot. If a majority of the qualified electors voting on said proposed measure, referendum, policy, recall or confirmation shall vote in favor thereof, it shall go into effect ten days after the declaration of the official count. The general statement or question provided for in this section shall be prepared by the city attorney and shall consist of not over thirty words.

If the official proposed to be removed at any recall election shall, as the result of said election, be recalled, the mayor shall appoint his successor for the unexpired term and the officer so recalled shall be ineligible to hold any city and county office for two years; should said officer be retained in his office, he shall be reimbursed out of the special election fund for his expenses in such recall election; provided that such payment shall not exceed the amount he is permitted to spend under the Purity of Elections Act now in force.

9.114 Competing and Conflicting Measures – Repeal

When two or more proposed measures are of the same general purpose, the registrar shall so declare, and shall cause ballots to be so printed that the voter, first, may choose between any measure or none, and, secondly, may express his preference for any one. If a majority of the votes on the first question is affirmative, then the measure receiving the highest number of votes shall become law and the other fail of passage. In case two or more measures are tied for the highest vote, they shall be resubmitted at the next ensuing general election. If there is a conflict between two or more measures

or between two or more charter amendments adopted at the same election, then the measure or charter amendment receiving the highest affirmative vote shall prevail.

No initiative, ordinance or measure or declaration of policy approved by the electorate under the provision of this charter shall be subject to veto, or be amended or repealed except by vote of the electorate, unless such ordinance or measure shall otherwise provide.

9.115 Substantial Compliance

No informalities in conducting municipal, special, initiative, referendum or recall elections shall invalidate such elections if they have been conducted fairly and in substantial compliance with and conformity to the requirements of this carter.

ARTICLE X

GENERAL PROVISIONS

10.100 Definitions

(a) "Retirement system" or "system" shall mean San Francisco City and County Employees' Retirement System as created in section 8.603 of the charter.

(b) "Retirement board" shall mean "retirement board" as created in section 3.670 of the charter.

(c) "Charter" shall mean the charter of the City and County of San Francisco.

(d) Words used in the masculine gender shall include the feminine and neuter genders, and singular numbers shall include the plural and the plural the singular.

(e) References throughout this charter to the exclusion or the exemption from the civil service provisions of this charter shall be construed to mean, exclusive of those civil service provisions that relate to examination, appointment and removal.

(f) Whenever advertising or publication is required by the provisions of this charter, it shall mean one publication in each edition of the official newspaper of the city and county printed and circulated in San Francisco on any one day, unless a greater number of publications is specifically required; provided that notices inviting bids shall be published for at least three consecutive days, except as provided in section 7.200 of this charter.

The official newspaper is hereby defined to be a daily newspaper of general circulation, published in the city and county and which has a bona fide daily circulation of at least 8,000 copies. Whenever

the official newspaper is not able to publish and circulate for any reason, the board of supervisors shall designate by resolution a substitute medium or media designed to give reasonable publicity in lieu of publication in the official newspaper, until such time as the official newspaper resumes publication and circulation.

10.101 Headings and Captions

Headings and captions used in this charter, whether the same occur between sections or immediately preceding section numbers, are hereby declared to be for no other purpose than the convenient indication of the general subject matter of the provisions which follow, and they shall not be considered or construed in connection with the text of this charter in any way so as to alter or modify the meaning or intent of the provisions of this charter, as such meaning or intent would be determined if such headings and captions were not used.

10.102 Constitutionality

If any section, subsection, or subdivision, sentence, clause or phrase of this charter is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portion or portions of this charter. The people of the City and County of San Francisco hereby declare that they would have ratified and adopted, and the Legislature hereby declares that it would have approved, this charter, and each section, subsection or subdivision, sentence, clause and phrase hereof as the charter of the City and County of San Francisco, irrespective of the fact that any one or more other sections, subsections or subdivisions, sentences, clauses or phrases be declared unconstitutional.

ARTICLE XI

CONTINUITY OF RIGHTS, OBLIGATIONS, EXISTING LAW, FUNCTIONS, POWERS AND DUTIES; EFFECTIVE DATE; RECODIFICATION

11.100 Continuity of Rights and Obligations

All rights and titles to property, all rights and obligations under contracts or trusts, and all causes of action of any kind in any court or tribunal vested in the City and County of San Francisco or in any officer or employee thereof in his official capacity, at the time this charter becomes effective, as well as all liabilities in contract or tort and causes of action involving the same in so far as they affect the city and county or any officer or employee thereof in his official

capacity, which shall be outstanding, at the time this charter becomes effective, shall continue without abatement or modification by reason of any provision hereof.

11.101 Continuity of Existing Law

All ordinances or resolutions in force at the time this charter takes effect and not inconsistent therewith shall continue in force until amended or repealed. All public improvements or other proceedings legally authorized under the charter superseded by this charter shall be carried to completion under previously existing laws or under this charter. The powers or duties vested in city and county officers, boards or commissions by law or under the charter superseded by this charter shall be exercised, continued and carried out by their successors or by other city and county officers, boards or commissions, consistent with the provisions of this charter.

11.102 Continuity of Functions, Powers and Duties

All functions of the city and county, and the powers and duties of officers and employees charged with the performance thereof, as these shall have been apportioned among departments and offices, and institutions, utilities, bureaus or other subdivisions thereof, as existing at the time this charter shall go into effect, shall continue to be the functions of such departments and offices and the powers and duties of officers and employees assigned thereto, except as in, or under authority of, this charter otherwise specifically provided. The legally authorized officers and employees of each of said departments and offices or subdivisions thereof shall continue as the officers and employees of said departments and offices or subdivisions thereof, subject to the conditions governing their respective appointments to such positions, and except as in this charter otherwise provided; and where part of the functions and duties of any department or office are, by this charter, transferred or placed in any other department or office, the persons performing such functions and duties, shall be transferred therewith. The compensations legally authorized for the several officers and employees shall be continued subject to the other provisions of this charter.

The powers and duties of the departments and offices which by this charter are established or continued as departments or offices under elective officers, boards or commissions or the chief administrative officer, as such powers and duties exist at the time this charter shall go into effect, shall be continued as powers and duties of each such department or office, except as otherwise provided in this charter.

11.103 Effective Date of Charter

This charter shall take effect at twelve o'clock noon on the 8th day of January, 1932, except as otherwise specifically provided in this charter. Upon its approval by the Legislature of the State of California, this charter shall take effect as herein provided and shall supersede the charter of the said city and county in force at the time immediately preceding such approval.

11.104 Effect of Recodification on Previous Charter

It is the purpose of the voters of the City and County by this enactment merely to recodify and re-enact without substantive change, all provisions of the charter of the City and County of San Francisco which took effect January 8, 1932, as amended from time to time, except as provisions of that charter have been omitted from the recodification because they are obsolete. In case of any inconsistency arising through omission or otherwise between the provisions of any section of this recodified charter and the corresponding portion of the charter of January 8, 1932, as amended, effect shall be given for all purposes whatsoever to the portion of the charter of January 8, 1932, as amended.

If in the election of November 2, 1971, any other proposition and this Proposition R, providing for a recodified charter, both receive the number of votes necessary for their adoption, then notwithstanding the provisions of section 185 of the charter, the provisions of any such other proposition shall be incorporated into the recodified charter, so adopted, and the City Attorney shall affix numbers and titles as he considers appropriate.

CUMULATIVE DIGEST
OF
CALIFORNIA SUPREME
AND
APPELLATE COURT
DECISIONS

1972

CUMULATIVE DIGEST

(1.101)* § 2. Powers of the City and County.

Under the provision that "The city and county may make and enforce all laws, ordinances and regulations necessary, convenient or incidental to the exercise of all rights and powers in respect to its affairs, . . . " initiative legislation which may be adopted by a chartered city is limited to "municipal affairs." The latter term, as used in the California Constitution, refers "to the internal business affairs of a municipality." Farley v. Healey (1967) (dissent) 67 Cal. (2d) 325, 431 Pac. (2d) 650, 61 Cal. Rptr. 20.

(9.100)* § 5. Elective Officers in Terms.

The provision in this section requiring automatic forfeiture of the position of any appointive city and county employee who becomes a candidate for election to any public office is unconstitutional in its entirety for overbreadth, which cannot be eliminated by the severance of any language, since the provision relates alike to all public offices, whether they be partisan or nonpartisan in character and whether they be San Francisco offices or national or state offices, and there is shown no compelling need to restrict the fundamental right involved on such a sweeping scale. Kinnear v. San Francisco (1964) 61 Cal. (2d) 341, 392 Pac. (2d) 391, 38 Cal. Rptr. 631. See corrective measure–Provision amended and renumbered.

(8.100)* § 7. Qualifications of Officers and Employees.

Cited in Hallinan v. Mellon (1963) 218 Cal. App. (2d) 342, 32 Cal. Rptr. 446.

(3.500)* § 19. Powers and Duties of Boards and Commissions.

When the approval of two-thirds of the Board of Supervisors is required on any provision, two-thirds of all the members of the Board, whether absent or present at the particular meeting, must approve the measure. San Francisco v. Western Air Lines, Inc. (1962) 204 Cal. App. (2d) 105, 33 Cal. Rptr. 216.

(3.501)* § 20. Powers and Duties of Department Heads.

Cited in Martinez v. Cahill (1963) 215 Cal. App. (2d) 823, 30 Cal. Rptr. 566.

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*The number in parentheses preceding the old section number is in accord with the 1971 recodification of the Charter.

(3.101)* § 22. Non-interference in Administrative Affairs.

This section prohibits direct dealing by the mayor with individual policemen, thus the mayor cannot be personally liable for the negligent acts or omissions of individual policemen. Martinez v. Cahill (1963) 215 Cal. App. (2d) 823, 30 Cal. Rptr. 566.

(3.537)* § 24. Permits and Inspections.

Under §§ 24 and 35.6 and the implementing municipal ordinances, the power with respect to the issuance, refusal and revocation of permits for businesses such as that of a pawnbroker is initially vested in the chief of police. These provisions set an overall standard governing and guiding the chief of police and prescribing that the exercise of his permit power must not be arbitary but rather directed to the promotion of the public interest, and in the regulation of the business of a pawnbroker, specific standards are not necessary. Iscoff v. Police Commission (1963) 222 Cal. App. (2d) 395, 35 Cal. Rptr. 189.

Cited in San Francisco v. Superior Court (1959) 53 Cal. (2d) 236, 347 Pac. (2d) 294, 1 Cal. Rptr. 158.

(3.530)* § 35. Police Department.

Although the police commission and the chief of police are compenents of the police department, they are not in themselves identical. Iscoff v. Police Commission (1963) 222 Cal. App. (2d) 395, 35 Cal. Rptr. 189.

Cited in Martinez v. Cahill (1963) 215 Cal. App. (2d) 823, 30 Cal. Rptr. 566.

(3.532)* § 35.1. Police Department.

Cited in Martinez v. Cahill (1963) 215 Cal. App. (2d) 823, 30 Cal. Rptr. 566.

(3.534)* § 35.3. Police Department.

See Martinez v. Cahill (1963) 215 Cal. App. (2d) 823, 30 Cal. Rptr. 566 citing section 35.1.

(3.531)* § 35.5. Departments Under Mayor—Police Department.

Cited in Hegarty v. Sohr (1961) 190 Cal. App. (2d) 509, 12 Cal. Rptr. 210.

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(8.405)* § 35.5.1. Departments Under Mayor–Police Department.

Longevity pay rates of Los Angeles which were not automatic but were contingent upon certification that one's standard of service was satisfactory and were declared to be a privilege earned by merit and not a right were not a "basic amount of wages" as the term is used in the governing definition of "rates of compensation" expressed in this section. Hegarty v. Sohr (1961) 190 Cal. App. (2d) 509, 12 Cal. Rptr. 210.

(3.537)* § 35.6. Police Department.

Under §§ 24 and 35.6 and the implementing municipal ordinances, the power with respect to the issuance, refusal and revocation of permits for businesses such as that of a pawnbroker is initially vested in the chief of police. These provisions set an overall standard governing and guiding the chief of police and prescribing that the exercise of his permit power must not be arbitrary but rather directed to the promotion of the public interest, and in the regulation of the business of a pawnbroker, specific standards are not necessary. Iscoff v. Police Commission (1963) 222 Cal. App. (2d) 395, 35 Cal. Rptr. 189.

(8.405)* § 36.2 Departments Under Mayor–Fire Department.

Longevity pay rates of Los Angeles which were not automatic but were contingent upon certification that one's standard of service was satisfactory and were declared to be a privilege earned by merit and not a right were not a "basic amount of wages" as the term is used in the governing definition of "rates of compensation" expressed in this section. Hegarty v. Sohr (1961) 190 Cal. App. (2d) 509, 12 Cal. Rptr. 210.

(3.651)* § 39. Board of Permit Appeals.

Failure to invoke and exhaust the administrative remedy of appeal under this section and § 24 to the Board of Permit Appeals constitutes a bar to judicial relief. Lynn v. Duckel (1956) 46 Cal. (2d) 845, 299 Pac. (2d) 236.

By ignoring the permit procedure established by this section and § 24 and building a roadway without permit, then suing the Director of Public Works for mandatory injunction for removal of city's obstruction to the roadway, a property owner attempts to nullify the

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procedure established by law, to the injury of the public, and does not come into court with "clean hands." Lynn v. Duckel (1956) 46 Cal. (2d) 845, 299 Pac. (2d) 236.

The Board of Permit Appeals is empowered to exercise full discretion in passing upon matters submitted to it; it is free to draw its own conclusions from the conflicting evidence before it and affirm or overrule the issuance of permits. San Francisco v. Superior Court (1959) 53 Cal. (2d) 236, 347 Pac. (2d) 294, 1 Cal. Rptr. 158.

Action of the Board of Permit Appeals involving issuance of a permit for an apartment building was not unconstitutional because unguided by adequate standards; the Charter and ordinances of the city fully prescribe the conditions which must be met by those who would construct apartment dwellings and specify the procedures to be followed by those who would secure permits. These conditions and procedures are the standards which must govern the appropriate administrative agencies. San Francisco v. Superior Court (1959) 53 Cal. (2d) 236, 347 Pac. (2d) 294, 1 Cal. Rptr. 158.

Where the Board of Permit Appeals, in considering an application for an apartment building, held a full hearing, viewed the site, and made its independent order, such order raised the presumption that the existence of the necessary facts, based on the standards as prescribed by the Charter and applicable ordinances, interpreted and administered to promote public health, safety, comfort, convenience, and general welfare, had been ascertained and found. Its action could not be successfully attacked on the ground that such standards were lacking. San Francisco v. Superior Court (1959) 53 Cal. (2d) 236, 347 Pac. (2d) 294, 1 Cal. Rptr. 158.

Where the Board of Permit Appeals, acting under this section, held full hearings and received expert testimony, a presumption arose that the existence of facts necessary to support its conclusions had been ascertained and found. The Board did not act beyond its jurisdiction or abuse its discretion in ruling upon a decision of the Central Permit Bureau. Board of Permit Appeals v. Central Permit Bureau (1960) 186 Cal. App. (2d) 633, 9 Cal. Rptr. 83.

It is well settled that the San Francisco Board of Permit Appeals is an administrative tribunal invested by the city's charter and implementing municipal ordinances with the power to hear and determine the entire controversy before it as to whether or not a permit should be issued, to draw its own conclusions from the conflicting evidence before it, and in the exercise of its own independent judgment to affirm or overrule the action of the official exercising permit power

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at the primary level. **Iscoff v. Police Commission** (1963) 222 Cal. App. (2d) 395, 35 Cal. Rptr. 189.

In reviewing a pawnbroker's application to transfer his permit to a new location, the board of permit appeals is entitled to consider the effect of the proposed business on the surrounding property and its inhabitants. **Iscoff v. Police Commission** (1963) 222 Cal. App. (2d) 395, 35 Cal. Rptr. 189.

This section has no bearing on the matter of the board's role and power in granting or denying zoning variances. **Cow Hollow Improvement Club v. Board of Permit Appeals** (1966) 245 Cal. App. (2d) 160, 53 Cal. Rptr. 610.

Neither the Charter, nor the Municipal Code provides for findings of fact or law by the Central Permit Bureau. **Russian Hill Improvement Association v. Board of Permit Appeals** (1967) 66 Cal. (2d) 34, 423 Pac. (2d) 824, 56 Cal. Rptr. 672.

Even after a permit has been lawfully issued by the Central Permit Bureau, the Board of Permit Appeals retains discretionary power to order that the permit be denied, because of a pending change in the law. **Russian Hill Improvement Association v. Board of Permit Appeals** (1967) 66 Cal. (2d) 34, 423 Pac. (2d) 824, 56 Cal. Rptr. 672.

This section and related provisions of the Municipal Code do not use the words "issue" and "grant" interchangeably; "issuance" describes the initial departmental action which is reviewed by the Board of Permit Appeals, and "granting" refers to the final disposition of the matter pursuant to the Board's orders. **Russian Hill Improvement Association v. Board of Permit Appeals** (1967) 66 Cal. (2d) 34, 423 Pac. (2d) 824, 56 Cal. Rptr. 672.

See also **Chas. L. Harney, Inc. v. Board of Permit Appeals** (1961) 1965 Cal. App. (2d) 442, 15 Cal. Rptr. 870.

Cited in **Broadway etc. Association v. Board of Permit Appeals** (1966) 246 ACA 29, 54 Cal. Rptr. 562.

(3.601)* § 46. Art Commission—Powers and Duties.

Where an art project was a cooperative project of the city and a federal agency, the art commission's resolution accepting the art work on dissolution of the federal project was a mere formality rather than a purposeful and unlawful exercise of dominion over privately-owned items mistakenly included in the transaction, and their receipt by the city did not constitute conversion so as to start

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the running of the statute of limitations at that time; nor did the resolution constitute notice to the owner of conversion where there was no evidence that the owner knew of the resolution. **Buffano v. City and County of San Francisco** (1965) 233 Cal. App. (2d) 61, 43 Cal. Rptr. 223.

(3.622)* § 50. California Palace of the Legion of Honor.

The obvious cultural and administrative requirements of the position of museum director provide legitimate basis for employment classification for the purpose of an ordinance excluding a director from the retirement system upon reappointment after resignation. **Acton, Heil, Brooks v. Henderson** (Three cases) (1957) 150 Cal. App. (2) 1, 309 Pac. (2d) 481.

(3.632)* § 51. M. H. de Young Memorial Museum.

The obvious cultural and administrative requirements of the position of museum director provide legitimate basis for employment classification for the purpose of an ordinance excluding a director from the retirement system upon reappointment after resignation. **Acton, Heil, Brooks v. Henderson** (Three cases) (1957) 150 Cal. App. (2d) 1, 309 Pac. (2d) 481.

(3.640)* § 52. California Academy of Sciences.

The obvious cultural and administrative requirements of the position of museum director provide legitimate basis for employment classification for the purpose of an ordinance excluding a director from the retirement system upon reappointment after resignation. **Acton, Heil, Brooks v. Henderson** (Three cases) (1957) 150 Cal. App. (2d) 1, 309 Pac. (2d) 481.

(3.301)* § 64. General Powers and Duties of Controller.

This section was not violated by the city in its agreements in connection with establishing an off-street parking facility. **Larsen v. City and County of San Francisco** (1957) 152 Cal. App. (2d) 355, 313 Pac. (2d) 959.

(6.205)* § 72. Adoption of the Budget and the Appropriation Ordinance.

This section was not violated by the city in its agreements in

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connection with establishing an off-street parking facility. Larsen v. City and County of San Francisco (1957) 152 Cal. App. (2d) 355, 313 Pac. (2d) 959.

(6.311)* § 82. Receipt, Custody and Deposit of Funds, Investment of Trust Funds.

This section was not violated by the city in its agreement in connection with establishing an off-street parking facility. Larsen v. City and County of San Francisco (1957) 152 Cal. App. (2d) 355, 313 Pac. (2d) 959.

(6.303)* § 85. Expenditures and Payment of Claims.

Cited in Flora Crane Service, Inc. v. Ross (1964) 61 Cal. (2d) 199, 390 Pac. (2d) 193, 37 Cal. Rptr. 425.

(6.302)* § 86. Limitation on Incurrence of Liability.

The second paragraph of this section imposes a correlative duty to that set out therein on the controller, by virtue of his office, to determine whether the necessary funds are available to carry out the proposed expenditure and, if so, to make the appropriate certification. Flora Crane Service, Inc. v. Ross (1964) 61 Cal. (2d) 199, 390 Pac. (2d) 193, 37 Cal. Rptr. 425.

Under this section the controller cannot make certification until the precise amount of the city's proposed contract is established, but thereafter he has a clear ministerial duty to determine whether the necessary funds are available, and, if they are, to so certify. Flora Crane Service, Inc. v. Ross (1964) 61 Cal. (2d) 199, 390 Pac. (2d) 193, 37 Cal. Rptr. 425.

Under this section the controller has an affirmative duty to make certification after the city's contract is established without a specific request by the contract's obligee. Flora Crane Service, Inc. v. Ross (1964) 61 Cal. (2d) 199, 390 Pac. (2d) 193, 37 Cal. Rptr. 425.

To compel certification by the controller of an appropriation for a contract after it has been performed does not defeat or impair the requirement of this section that the certification be before the obligation is incurred or authorized so as to open the door to fraudulent imposition of contractual liabilities on the city, where there is a valid appropriation for the expenditure and unencumbered funds are available to pay it. Flora Crane Service, Inc. v. Ross (1964) 61 Cal. (2d) 199, 390 Pac. (2d) 193, 37 Cal. Rptr. 425.

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(7.703)* § 87. Limitation on Claims and Damages.

In a personal injury action, the city was not estopped from asserting the defense of noncompliance with this section where there was no finding that the oral notice given to a city employee contained the necessary information for the city to investigate the matter and where the record implied a lack of reliance by the injured plaintiff on the city employee's statement that a delayed filing of a claim would be "all right." Howard v. San Francisco (1962) 205 Cal. App. (2d) 602, 23 Cal. Rptr. 183.

(7.402)* § 93. Lease of City Property.

Cited in San Francisco v. Western Air Lines, Inc. (1962) 204 Cal. App. (2d) 105, 22 Cal. Rptr. 216.

(7.601)* § 108. Repair of Accepted Streets.

Sections 202(c), 203(a), and 205(c) of the Standard Specifications of the Bureau of Engineering, Department of Public Works, should not be read in conjunction with this section; there is no retroactive mandatory duty on the part of the City and County to have curbs throughout the City six inches in height. Curreri v. City and County of San Francisco (1968) 262 ACA 657, 69 Cal. Rptr. 20.

Failure to provide curbs on Greenwich Street six inches in height cannot be interpreted as negligence as a matter of law. Curreri v. City and County of San Francisco (1968) 261 ACA 657, 69 Cal. Rptr. 20.

(7.503)* § 117.3. Variances.

The initial determination as to whether a zoning variance should be granted or denied is vested in the zoning administrator, who is empowered to grant a variance only on finding that the conditions of this section and § 302(d) of the City Planning Code are satisfied. Cow Hollow Improvement Club v. Board of Permit Appeals (1966) 245 Cal. App. (2d) 160, 53 Cal. Rptr. 610.

A determination by the zoning administrator that the conditions for granting a zoning variance are satisfied is not final where an appeal is taken to the board of permit appeals. Cow Hollow Improvement Club v. Board of Permit Appeals (1966) 245 Cal. App. (2d) 160, 53 Cal. Rptr. 610.

Upon the taking of an appeal from the zoning administrator to the board of permit appeals, the board is not bound by the administra-

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tor's findings or his decision; hence the board is invested with complete power to hear and determine the entire controversy before it and to draw its own conclusions from conflicting evidence before it and, in the exercise of its independent judgment, to affirm, modify, or overrule the administrator's action. **Cow Hollow Improvement Club v. Board of Permit Appeals** (1966) 245 Cal. App. (2d) 160, 53 Cal. Rptr. 610.

The board's role and power in granting or denying zoning variances are governed exclusively by this section and by Section 303 of the City Planning Code. **Cow Hollow Improvement Club v. Board of Permit Appeals** (1966) 245 Cal. App. (2d) 160, 53 Cal. Rptr. 610.

Cited in **Russian Hill Improvement Association v. Board of Permit Appeals** (1967) 66 Cal. (2d) 34, 423 Pac. (2d) 824, 56 Cal. Rptr. 672.

(3.599)* § 119. **Public Utility Policy.**

Cited in **Market Street Railway Company v. California State Board of Equalization** (1956) 137 Cal. App. (2d) 87, 290 Pac. (2d) 20.

(no sec.)* § 119.1. **Extension of Municipal Railway by Unification with Market Street Railway.**

Cited in **Market Street Railway Company v. California State Board of Equalization** (1956) 137 Cal. App. (2d) 87, 290 Pac. (2d) 20.

(3.590)* § 120. **Public Utilities Commission.**

A reading of this section in conjunction with §§ 121, 122 and 125 shows that the charter intended to designate and establish the airport as a public utility. **San Francisco v. Western Air Lines, Inc.** (1962) 204 Cal. App. (2d) 105, 22 Cal. Rptr. 216.

(3.591)* § 121. **Public Utilities Commission—General Powers and Duties of Commission.**

A reading of this section in conjunction with §§ 120, 122 and 125 shows that the charter intended to designate and establish the airport as a public utility. **San Francisco v. Western Air Lines, Inc.** (1962) 204 Cal. App. (2d) 105, 22 Cal. Rptr. 216.

(3.592)* § 122. **Public Utilities Commission—Utility Departments and Bureaus.**

A reading of this section in conjunction with §§ 120, 121 and 125

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shows that the charter intended to designate and establish the airport as a public utility. San Francisco v. Western Air Lines, Inc. (1962) 204 Cal. App. (2d) 105, 22 Cal. Rptr. 216.

(7.404)* § 123. Referendum on Any Lease or Sale of Public Property.

An off-street parking facility is not a public utility within the meaning of this section. Larsen v. City and County of San Francisco (1957) 152 Cal. App. (2d) 355, 313 Pac. (2d) 959.

Cited in San Francisco v. Western Air Lines, Inc. (1962) 204 Cal. App. (2d) 105, 22 Cal. Rptr. 216.

(no sec.)* § 125. Public Utilities Commission–Employments.

A reading of this section in conjunction with §§ 120, 121 and 122 shows that the charter intended to designate and establish the airport as a public utility. San Francisco v. Western Air Lines, Inc. (1962) 204 Cal. App. (2d) 105, 22 Cal. Rptr. 216.

(3.598)* § 130. Public Utilities Commission–Rates.

This section is permissive in character. It does not demand that all users of facilities be charged equal rates, nor does it proscribe unequal rates or even give definition to the terms employed. San Francisco v. Western Air Lines, Inc. (1962) 204 Cal. App. (2d) 105, 22 Cal. Rptr. 216.

(3.660)* § 140. Civil Service Commission.

Cited in Murphy v. Walsh (1958) 158 Cal. App. (2d) 675, 323 Pac. (2d) 206.

(3.661)* § 141. Powers and Duties.

The rules of the Civil Service Commission made under the powers given in this section have the force and effect of law so long as they are reasonable and within the fundamental provisions of the Charter. Murphy v. Walsh (1958) 158 Cal. App. (2d) 675, 323 Pac. (2d) 206.

The provision that "the allocation or re-allocation of a position shall not adversely affect the civil service rights of an occupant regularly holding such position" includes the right of an incumbent to retain the same schedule of compensation following reclassification of his position that he had before; and where the commission

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civil service rights of incumbents regularly employed by the city. **Forstner v. City and County of San Francisco** (1966) 239 Cal. App. (2d) 516, 48 Cal. Rptr. 805.

(8.403)* § 151.3. Standardization of Compensation.

The purpose of this section is to provide a standard for determining pay rates that will insure city civil service employees a wage scale commensurate with wages received by workers in the same field in private industry. **Thomlinson v. San Francisco** (1964) 227 Cal. App. (2d) 619, 38 Cal. Rptr. 863.

The provision in this section calling for review of collective bargaining agreements in private industry as of July 1 and for the certification on or before the second Monday of July of any modification of rates established thereunder is to insure that rates of pay for city and county employees established by such private industry agreements for the new fiscal year shall be those actually prevailing on July 1. **Thomlinson v. San Francisco** (1964) 227 Cal. App. (2d) 619, 38 Cal. Rptr. 863.

Though the provision of San Francisco Charter, § 151.3, making the wage rates of groups or crafts in private employment the standard for setting wage rates for groups or crafts employed by the city, protects civil service employees covered by it as to modifications of rates of pay in private industry between April 1 and July 1 of any year, the basic purpose of the section predominates, that is, that the employee shall be entitled to the rate of pay generally prevailing in private employment in San Francisco on July 1, whether that be more or less than that prevailing on or prior to April 1. **Thomlinson v. San Francisco** (1964) 227 Cal. App. (2d) 619, 38 Cal. Rptr. 863.

Under this section the civil service commission is required to certify the rate of pay generally prevailing in private employment in San Francisco to establish the wage scale for city and county employees and has the implied power to correct any error in certifying inapplicable rates. **Thomlinson v. San Francisco** (1964) 227 Cal. App. (2d) 619, 38 Cal. Rptr. 863.

This section must be applied in a manner which is consonant with its objective and also fair and just, not only to the employees involved, but also to the general public. **Thomlinson v. San Francisco** (1964) 227 Cal. App. (2d) 619, 38 Cal. Rptr. 863.

Cited in **Estes v. City of Richmond** (1967) 249 Cal. App. (2d) 538, 57 Cal. Rptr. 536.

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(8.440)* § 151.5. Vacations for Per Diem Workers.

This section by its express terms provides that it shall have some retroactive application, and hence vacation pay is properly granted to city employees who left the city service shortly prior to passage of this section. Boyer v. County of Contra Costa (1965) 235 Cal. App. (2d) 111, 45 Cal. Rptr. 58.

(8.341)* § 154. Suspension and Dismissal for Cause.

The first sentence of this section, providing that a civil service employee shall not be removed or discharged "except for cause," is interpreted to mean that any reasonable, sufficient cause may be grounds for dismissal by the appointing officer. Whoriskey v. San Francisco (1963) 213 Cal. App. (2d) 400, 28 Cal. Rptr. 833.

The general power of the appointing officer to discharge is not limited by the specified grounds that apply when charges are filed by one other than the appointing officer. The appointing officer has a wide discretion in determining the fitness of an employee to continue performing the duties required by his employment. Whoriskey v. San Francisco (1963) 213 Cal. App. (2d) 400, 28 Cal. Rptr. 833.

The term "for cause" implies the existence of some fact that would constitute reasonable cause of removal; and in deciding whether the removal of a permanent employee was reasonable, the appellate court looks to the findings of the civil service commission rather than to the findings of the superior court that acted as the reviewing tribunal. Forstner v. City and County of San Francisco (1966) 243 Cal. App. (2d) 625, 52 Cal. Rptr. 621.

Insubordination by a civil service employee can be rightfully predicated only on a refusal to obey an order that a superior officer is entitled to give and to have obeyed, and the order must reasonably be related to the employee's duties. Forstner v. City and County of San Francisco (1966) 243 Cal. App. (2d) 625, 52 Cal. Rptr. 621.

(8.343)* § 155. Fire and Police Disciplinary Procedure.

Former section cited: power of removal or suspension in police commission only. Martinez v. Cahill (1963) 215 Cal. App. (2d) 823, 30 Cal. Rptr. 566.

This section clearly provides authority in the fire chief to suspend without a prior hearing and affords ample protection of all the

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members' constitutional rights. Apostoli v. City and County of San Francisco (1969) 268 ACA 786.

The statutory power of the fire chief to suspend without a prior hearing is not without restraint; the suspended member has the right to appeal to the Fire Commission, and this appeal contemplates a full hearing with the right of a member to appear with counsel, to have a public trial, and to secure the attendance of witnesses for his defense. Apostoli v. City and County of San Francisco (1969) 268 ACA 786.

Where a fire department member suspended, by the fire chief appeals to the Fire Commission, the commission has the power to reverse or alter the finding of the chief, and in case of reversal may in its discretion order that the member affected be paid salary for the period of suspension.Apostoli v. City and County of San Francisco (1969) 268 ACA 786.

The formalities of this section and of Section 4403 of the Rules and Regulations of the Fire Department, relating to suspension by the fire chief without a hearing, are complied with by the delivery to the member of a copy of the City's investigating report on which the suspension was based. Apostoli v. City and County of San Francisco (1969) 268 ACA 786.

(8.501)* § 158.1. Retirement of Elective Officers.

Cited in Carey v. Retirement Board of San Francisco (1955) 131 Cal. App.(2d) 739, 281 Pac. (2d) 25.

(8.502)* § 158.2. Retirement of Elective Officers (continued).

Cited in Carey v. Retirement Board of San Francisco (1955) 131 Cal. App. (2d) 739, 281 Pac. (2d) 25.

(8.503)* § 158.3. Retirement–Court Employees and Attaches.

Cited in Carey v. Retirement Board of San Francisco (1955) 131 Cal. App. (2d) 739, 281 Pac. (2d) 25.

(no sec.)* § 162. Definition, Members of Fire and Police Departments.

This section was intended to exclude from § 169 pension coverage all marine engineers who were not required to meet the 35-year age limitation prescribed for regular members of the fire department. Carrick v. San Francisco (1962) 202 Cal. App. (2d) 402, 20 Cal. Rptr. 878.

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(8.507)* § 165. Miscellaneous Officers and Employees.

Since this section and § 165.2 both require employees to be members of the retirement system and there is no provision in either section permitting over-age persons to become members, such persons are not eligible for city employment under charter provisions alone. Acton, Heil, Brooks v. Henderson (Three cases) (1957) 150 Cal. App. (2d) 1, 309 Pac. (2d) 481.

The power conferred upon the board of supervisors by par. "a" of this section to include certain offices, departments, etc., within the retirement system includes, by implication, the power of exclusion. Exclusion of employees may be by classification. Where such employees have resigned from their positions, the section permits their reemployment. Acton, Heil, Brooks v. Henderson (Three cases) (1957) 150 Cal. App. (2d) 1, 309 Pac. (2d) 481.

The provision of par. "a" of this section making retirement compulsory at age 70 is qualified by the discretion vested in the board of supervisors. Acton, Heil, Brooks v. Henderson (Three cases) (1957) 150 Cal. App. (2d) 1, 309 Pac. (2d) 481.

This section was not expressly or impliedly repealed by § 165.2; nor is there express repeal of par. "a" of this section by § 165.2, or necessary incompatability with it. The fact that § 165.2 sets up a different retirement system, with a different age as compulsory retirement should not be considered as an implied repeal of par. "a" of this section. Acton, Heil, Brooks v. Henderson (Three cases) (1957) 150 Cal. App. (2d) 1, 309 Pac. (2d) 481.

The definition of employees in § 165.2 was intended to be the same as the term is defined in this section and § 165.2 was intended to be subject to par. "a" of this section insofar as the power of the board of supervisors to determine who shall be member of the retirement system is concerned. Acton, Heil, Brooks v. Henderson (Three cases) (1957) 150 Cal. App. (2d) 1, 309 Pac. (2d) 481.

It is a possible and reasonable interpretation that § 165.2 affects all individuals who have not been made, constitutionally, a member of an exempt class under the power conferred by par. "a" of this section. Acton, Heil, Brooks v. Henderson (Three cases) (1957) 150 Cal. App. (2d) 1, 309 Pac. (2d) 481.

Cited in Carrick v. San Francisco (1962) 202 Cal. App. (2d) 402, 20 Cal. Rptr. 878.

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currently, one may be offset or credited against the other to the end that total payments shall not exceed the stipulated monthly pension. City and County of San Francisco v. Workmen's Compensation Appeals Board (1968) 267 ACA 856, 73 Cal. Rptr. 429.

The Charter should be construed, if reasonably possible, to avoid double liability to the City and County for one disability injury to one employee. City and County of San Francisco v. Workmen's Compensation Appeals Board (1968) 267 ACA 856, 73 Cal. Rptr. 429.

The first sentence of this section is construed to provide for offsetting against a retired policeman's disability allowance, workmen's compensation payments previously made because of the injury that brought about his later retirement; and this section permits the Board of Supervisors to fix the manner in which the retirement allowance may be reduced. City and County of San Francisco v. Workmen's Compensation Appeals Board (1968) 267 ACA 856, 73 Cal. Rptr. 429.

Under the second sentence of this section, the City and County is entitled to credit a policeman's disability retirement allowance against a workmen's compensation award given for the same injury subsequent to retirement. City and County of San Francisco v. Workmen's Compensation Appeals Board (1968) 267 ACA 856, 73 Cal. Rptr. 429.

(8.561)* § 168.3. Pension Provisions–Dependents of Members of Fire and Police Departments Killed in Line of Duty.

On appeal from a judgment supporting the Retirement Board's determination that the widow of a member who had retired and was found to have a service-connected disability was entitled to a pension under section 168.1.5 rather than under this section, it was appellant's burden to show that the evidence and the reasonable inferences therefrom did not support the findings of the Board. On such appeal, respondent enjoys in its favor all inferences arising from conflicts in the evidence, even though an equally reasonable adverse inference is possible. Appellant, in other words, must not only show that a finding in her favor would have been supported, but must demonstrate that such finding is compelled as a matter of law. Cooper v. Retirement Board of San Francisco (1955) 131 Cal. App. (2d) 804, 281 Pac. (2d) 349.

In proceedings to compel payment of a widow's pension under this section, rather than under section 168.1.5, for death of a retired

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member the findings of the Retirement Board that the member did not die of injury received in, or illness caused by the performance of his duty and that the widow did not sustain her burden of proving that the member died as a result of injury received in, or illness caused by performance of his duty, were sustained by the evidence where the member, a policeman who suffered a service-connected heart condition had attempted, after his retirement, to make an arrest, whereupon he was assaulted, and the medical testimony showed at most that in the legal sense the cause of his death was the over-exertion or excitement caused by the altercation. **Cooper v. Retirement Board of San Francisco** (1955) 131 Cal. App. (2d) 804, 281 Pac, (2d) 349.

The purpose of this section was to enlarge the rights of widows of firemen killed in line of duty. **Carey v. Retirement Board of San Francisco** (1955) 131 Cal. App. (2d) 739, 281 Pac. (2d) 25.

The phrase "in lieu of," as used in this section means "instead of," "in place of," "in substitution for." This section impliedly repeals section 169(b), therefore, and provides the sole method of compensation for widows of firemen who die from injuries received in line of duty. **Carey v. Retirement Board of San Francisco** (1955) 131 Cal. App. (2d) 739, 281 Pac. (2d) 25.

Cited in **Carrick v. San Francisco** (1962) 202 Cal. App. (2d) 402, 20 Cal. Rptr. 878.

(8.565)* § 169. Present Members of Fire Department.

Subdivision "b" of this section is impliedly repealed by section 168.3, and that section provides the sole method of compensation for widows of firemen who die from injuries received in line of duty. **Carey v. Retirement Board of San Francisco** (1955) 131 Cal. App. (2d) 739, 281 Pac. (2d) 25.

Even though marine engineers wear uniforms and serve on assigned watches, they are not entitled to pension coverage under § 169 unless they fulfill the definition of firemen as given in § 162. **Carrick v. San Francisco** (1962) 202 Cal. App. (2d) 402, 20 Cal. Rptr. 878.

(8.568)* § 171.1 Health Service System.

Cited in **Martin v. San Francisco** (1959) 168 Cal. App. (2d) 570, 336 Pac. (2d) 239.

*The number in parentheses preceding the old section number is in accord with the 1971 recodification of the Charter.

(8.570)* § 171.1.2. Pension Provisions–Future Members of Fire Department.

Cited in Carrick v. San Francisco (1962) 202 Cal. App. (2d) 402, 20 Cal. Rptr. 878.

(9.102)* § 173. Registrar of Voters.

Under the provision that "The conduct, management and control of . . . the holding of elections in the city and county shall be vested exclusively" in the registrar of voters, and under the provision in Charter section 180 that "Unless and until it be proven otherwise by official investigation by the registrar, it shall be presumed that the petition filed conforms to all legal requirements and contains" sufficient qualified signatures, the acting registrar of voters did not exceed his authority by undertaking to determine whether a proposed initiative measure was within the power of the electorate to adopt. Farley v. Healey (1967) (dissent) 67 Cal. (2d) 325, 431 Pac. (2d) 650, 62 Cal. Rptr. 26.

(9.108)* § 179. Initiative, Referendum and Recall.

The power of initiative must be liberally construed to promote the democratic process. Farley v. Healey (1967) 67 Cal. (2d) 325, 431 Pac. (2d) 650, 62 Cal. Rptr. 26.

The power of initiative is not limited to submitting initiative measures to the electorate that concern only municipal affairs on which the Board of Supervisors could enact binding legislation. Farley v. Healey (1967) 67 Cal. (2d) 325, 431 Pac. (2d) 650, 62 Cal. Rptr. 26.

This section, which reserves to the people the power to initiate "any ordinance, act or other measure which is within the power conferred upon the board of supervisors to enact . . .", imposes no limits on the type of declarations of policy that may be submitted by initiative. Farley v. Healey (1967) 67 Cal. (2d) 325, 431 Pac. (2d) 650, 62 Cal. Rptr. 26.

The numerical requirement as to submitting initiative measures serves as a built-in safeguard against frivolous use of the initiative process. There is no other limitation in the Charter that prevents submission to a general vote of a measure declaring policy on a matter of national concern. Farley v. Healey (1967) 67 Cal. (2d) 325, 431 Pac. (2d) 650, 62 Cal. Rptr. 26.

Under the provision in section 2 of the Charter that "The city and

*The number in parentheses preceding the old section number is in accord with the 1971 recodification of the Charter.

county may make and enforce all laws, ordinances and regulations necessary, convenient or incidental to the exercise of all rights and powers in respect to its affairs, . . ." initiative legislation which may be adopted by a chartered city is limited to "municipal affairs." The latter term, as used in the California Constitution, refers to "the internal business affairs of a municipality." Farley v. Healey (1967) (dissent) 67 Cal. (2d) 325, 431 Pac. (2d) 650, 62 Cal. Rptr. 26.

The use in this section of the phrase "declaration of policy" does not mean that the people intended to reserve to themselves a unique straw vote or poll-taking device. Even if this were the purpose of the framers of the Charter, it would be to no avail, because the limitations of the California Constitution, which is the measure of the initiative power, must control. Farley v. Healey (1967) (dissent) 67 Cal. (2d) 325, 431 Pac. (2d) 650, 62 Cal. Rptr. 26.

(9.109)* § 180. Petitions.

Under this section, the acting registrar of voters exceeded his authority by undertaking to determine whether a proposed initiative measure was within the power of the electorate to adopt. His duty is limited to the ministerial function of ascertaining whether the procedural requirements for submitting an initiative measure have been met. Farley v. Healey (1967) 67 Cal. (2d) 325, 431 Pac. (2d) 650, 62 Cal. Rptr. 26.

Given compliance with the formal requirements for submitting an initiative measure, the registrar of voters must place it on the ballot unless he is directed to do otherwise by a court on a compelling showing that a proper case has been established for interfering with the initiative process. Farley v. Healey (1967) 67 Cal. (2d) 325, 431 Pac. (2d) 650, 62 Cal. Rptr. 26.

Under the provision in Charter section 173 that "The conduct, management and control of . . . the holding of elections in the city and county shall be vested exclusively" in the registrar of voters, and under the provisions in this section that "Unless and until it be proven otherwise by official investigation by the registrar, it shall be presumed that the petition filed conforms to all legal requirements and contains" sufficient qualified signatures, the acting registrar of voters did not exceed his authority by undertaking to determine whether a proposed initiative measure was within the power of the electorate to adopt. Farley v. Healey (1967) (dissent) 67 Cal. (2d) 325, 431 Pac. (2d) 650, 62 Cal. Rptr. 26.

*The number in parentheses preceding the old section number is in accord with the 1971 recodification of the Charter.

INITIATIVE ORDINANCES
REFUSE COLLECTION AND DISPOSAL ORDINANCE

Adopted November 8, 1932

Providing for the Collection and Disposition of Refuse in the City and County of San Francisco; Providing for the Licensing of Refuse Collectors by the Director of Public Health; Fixing the Maximum Rates or Charges for the Collection of Refuse by Licensed Refuse Collectors from Homes, Apartment Houses, Stores, etc.; Dividing City and County of San Francisco into Collection Routes; Providing Penalties for the Violation of the Provisions of this Ordinance.

Be it Ordained by the People of the City and County of San Francisco:

SECTION 1. The term "refuse" as used in this ordinance shall be taken to mean all waste and discarded materials from dwelling places, households, apartment houses, stores, office buildings, restaurants, hotels, institutions and all commercial establishments, including waste or discarded food, animal and vegetable matter from all kitchens thereof, waste paper, cans, glass, ashes, and boxes and cuttings from trees, lawns and gardens. Refuse as used herein does not include debris and waste construction materials, including wood, brick, plaster, glass, cement, wire, and other ferrous materials, derived from the construction of or the partial or total demolition of buildings or other structures.

SECTION 2. It shall be unlawful for any person, firm or corporation to dispose of refuse as defined in this ordinance except as herein provided, save that the provisions of this ordinance shall not include refuse which may be incinerated by an owner of a building for himself or for his tenants on the premises where produced; provided, however, that such incineration shall be subject to inspection and control by the Director of Public Health and the Fire Department. Failure of any householder producing refuse to subscribe to and pay for refuse collection, unless such householder is a tenant for whom refuse collection service is provided by his landlord, shall be prima facie evidence that such householder is disposing of refuse in violation of this ordinance.

SECTION 3. Refuse consisting of waste or discarded food, animal and vegetable matter, discarded containers of food, animal

and vegetable matter and ashes shall be collected and placed in suitable metal cans of such capacity as the Director of Public Works may prescribe (but not to exceed 32 gallons in the case of a can serving one single family dwelling unit) by the producer or landlord who by reason of contract or lease with an occupant is obligated to care for such refuse, for collection by a refuse collector to be disposed of as herein provided. Waste paper and boxes and other refuse materials not subject to putrefaction or decay, and cuttings from trees, lawns and gardens may be placed in any suitable container and delivered by the producer or landlord, who by reason of contract or lease with the occupant is obligated to care for such refuse and deliver same to a refuse collector, to be disposed of as herein provided; provided, however, that it shall be optional with the producer or landlord to deliver waste paper or other refuse having a commercial value to a refuse collector, and the producer or landlord may dispose of the same in any manner he may see fit. Refuse which under the provisions hereof must be deposited in a metal can of suitable capacity shall be removed daily from the place where the same is created.

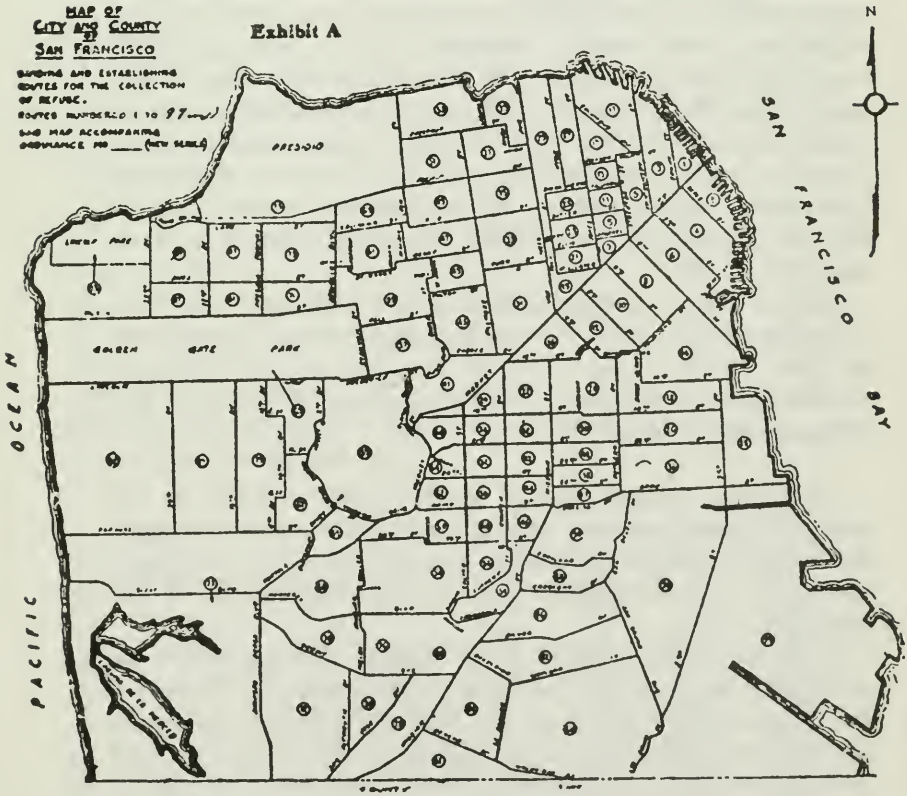
Section 4. It shall be unlawful for any person, firm or corporation, other than a refuse collector licensed by the Director of Public Health as in this ordinance provided, to transport through the streets of the City and County of San Francisco any refuse as in this ordinance defined, or to collect or to dispose of the same, except waste paper, or other refuse having a commercial value. It is provided, however, that a license for a refuse collector, as provided in Section 8 hereof, shall be distinguished from a permit to operate, in the City and County of San Francisco on a certain designated route, as hereinafter provided.

Upon the conviction of any person, firm or corporation for any violation of the provisions of this ordinance, the permit of such person, firm or corporation issued under the provisions of this ordinance, shall be forthwith and immediately terminated and canceled as of the date of conviction.

The City and County of San Francisco is herewith divided and established into routes for the collection of refuse, as designated on a map of the City and County of San Francisco, attached hereto, each said route to include only the side of the street or streets bounding each route as designated by a number on said

map, said routes being numbered one to ninety-seven, inclusive, and said map and said routes are marked Exhibit A, and attached hereto and made a part of this ordinance.

Any person, firm or corporation desiring to transport through the streets of the City and County of San Francisco, any refuse as herein defined, or to collect or dispose of the same, shall make application to the Director of Public Health for permission so to do. Said application for such permit shall contain the name of the person, firm or corporation, any of the particular route or routes, designated in said map of routes, proposed to be served by said person, firm or corporation, and a statement that said person, firm or corporation will abide by all the provisions of this ordinance, and will not charge a greater rate for the collection and disposition of said refuse than that fixed in or pursuant to this ordinance.



MAP OF THE CITY AND COUNTY OF SAN FRANCISCO

The Director of Public Health shall grant a permit to such applicant unless the route proposed is already adequately served by a licensed refuse collector. An application for a permit must be granted, however, by the said Director of Public Health, and it is mandatory on said director to grant the same, when it shall appear in any said application for a route or routes by a person, firm or corporation, that twenty per cent or more of the householders, business men, apartment house owners, hotel keepers, institutions or residents in said route or routes, using refuse service, and paying for same, or obligated to do so, have signed a petition or contract in which they have stated that they are inadequately served by any refuse collector who is then collecting refuse on said route, provided that said director finds upon substantial evidence that such statement is correct. That inadequate service is hereby defined as the failure, on the part of any refuse collector to properly collect, handle or transport refuse on said route, or the overcharging for the collection of same, or insolence towards persons whose refuse has been collected, or the collection by any refuse collector whose license has been revoked as provided in Section 9 hereof. Such permit so granted by the Director of Public Health shall not be exclusive, however, and one or more persons, firms or corporations may be given a permit to collect on the same route.

Persons, firms or corporations desiring to transport through the streets of the City and County of San Francisco only waste paper or other refuse having a commercial value, and to collect and dispose of same need not obtain a permit therefor under the provisions of this ordinance.

Section 5. Refuse collected by refuse collectors shall be disposed of by such persons, firms or corporations and in such manner or by such method or methods as from time to time designated by the Board of Supervisors of the City and County of San Francisco.

Until and unless changed in the manner herein provided the maximum rate or charge for the disposal of refuse to be charged the refuse collector by any person, firm or corporation authorized by the Board of Supervisors to dispose of refuse shall be $1.50 per ton. Such rate or charge may, from time to time, be adjusted in the same manner, and in accordance with the same procedures,

as is provided for the adjustment of rates and charges for the collection of refuse in Section 6(a) of this ordinance.

SECTION 6. (a) Until and unless changed in the manner hereinafter set forth, the maximum rates or charges for the collection and disposition of refuse as herein defined, by refuse collectors, from residences, flats and apartment houses of not more than 600 rooms, and the regulations relating to such rates or charges, shall be as follows:

Rate Schedules

Monthly rates from residences and flats for one container of not exceeding thirty-two gallons. Made from the ground floor:

	Collections Per Week			
No. Rooms	*1.*	*2.*	*3.*	*4.*
1 to 4	$ .80	$1.20	$1.35	$1.50
5	.85	1.25	1.40	1.55
6	.85	1.25	1.40	1.55
7	.95	1.35	1.50	1.70
8	1.00	1.50	1.70	1.80
9	1.00	1.50	1.70	1.80
10	1.00	1.50	1.70	1.80
11	1.00	1.50	1.70	1.80
12	1.00	1.50	1.70	1.80

Monthly rates from residences and flats for one container of not exceeding thirty-two gallons. Made from second floor, one stairway above ground floor or basement:

	Collections Per Week			
No. Rooms	*1.*	*2.*	*3.*	*4.*
1 to 4	$ .85	$1.25	$1.40	$1.55
5	.95	1.35	1.45	1.60
6	.95	1.35	1.45	1.60
7	1.00	1.40	1.55	1.75
8	1.10	1.60	1.80	1.90
9	1.10	1.60	1.80	1.90
10	1.10	1.60	1.80	1.90
11	1.10	1.60	1.80	1.90
12	1.10	1.60	1.80	1.90

Monthly rates from residences and flats for one container of not exceeding thirty-two gallons. Made from third floor, two stairways above ground floor or basement:

	Collections Per Week			
No. Rooms	*1.*	*2.*	*3.*	*4.*
1 to 4	$ .90	$1.30	$1.45	$1.60
5	.95	1.35	1.50	1.65
6	.95	1.35	1.50	1.65
7	1.10	1.55	1.70	1.80
8	1.15	1.70	1.90	2.00
9	1.25	1.75	1.95	2.10
10	1.25	1.75	1.95	2.10
11	1.25	1.75	1.95	2.10
12	1.25	1.75	1.95	2.10

Monthly rates from residences and flats for one container of not exceeding thirty-two gallons. Made from fourth floor, three stairways above ground floor or basement:

	Collections Per Week			
No. Rooms	*1.*	*2.*	*3.*	*4.*
1 to 4	$1.00	$1.40	$1.55	$1.70
5	1.10	1.50	1.65	1.80
6	1.10	1.50	1.65	1.80
7	1.20	1.60	1.75	1.90
8	1.20	1.70	1.90	2.05
9	1.25	1.75	1.95	2.10
10	1.25	2.00	2.20	2.40
11	1.25	2.00	2.20	2.40
12	1.25	2.00	2.20	2.40

Monthly rates from apartment houses:

	Collections Per Week				
No. Rooms	*6.*	*4.*	*3.*	*2.*	*1.*
10	$ 3.00	$ 2.40	$2.20	$1.90	$1.80
20	5.70	4.90	4.40	3.90	3.70
30	7.90	6.40	5.90	5.20	.....
40	9.80	8.70	7.40	.....	.....
50	11.30	10.20	8.70	.....	.....
60	12.50	11.50	.....	.....	.....

	Collections Per Week				
No. Rooms	*6.*	*4.*	*3.*	*2.*	*1.*
70	$13.80	$12.90	$	$	$
80	15.00	14.00			
90	16.30	15.20			
100	17.50	16.20			
110	19.00				
120	20.40				
130	21.80				
140	23.20				
150	24.50				
160	25.90				
170	27.30				
180	28.70				
190	30.00				
200	31.40				
210	32.50				
220	33.80				
230	35.00				
240	36.30				
250	37.50				
260	38.80				
270	40.00				
280	41.30				
290	43.80				
300	45.00				
310	46.30				
320	47.50				
330	48.80				
340	50.00				
350	51.30				
360	52.50				
370	53.80				
380	56.30				
390	57.50				
400	58.80				
410	59.00				
420	60.40				
430	61.80				
440	63.20				

	Collections Per Week				
No. Rooms	*6.*	*4.*	*3.*	*2.*	*1.*
450	$64.50	$	$	$	$
460	65.90				
470	67.30				
480	68.70				
490	70.00				
500	71.40				
510	72.80				
520	74.20				
530	75.50				
540	76.90				
550	78.30				
560	79.70				
570	82.30				
580	82.40				
590	83.80				
600	85.00				

Rate Regulations

Rates for residences and flats shall be increased for more than one container of a maximum of thirty-two gallons by 10 cents per additional container per collection.

Any charge made by a refuse collector for removal of waste material not required to be placed in metal cans and which is delivered to him in other suitable containers as provided by section 3 hereof shall not exceed the rates fixed herein for collection and disposal of equivalent volumes of refuse in metal cans.

In determining the number of rooms of any household, building or apartment in order to ascertain the rate for the collection and disposition of refuse therefrom, halls, alcoves, storerooms, bathrooms, closets and toilets shall not be considered as rooms, nor shall basements or attics be considered as rooms unless the same be occupied as living quarters.

Any collection and disposition charges not specifically set forth herein shall be subject to agreement between the producer and a duly licensed refuse collector.

Procedure for Adjustment

There is hereby created a Rate Board consisting of the Chief Administrative Officer, who shall act as chairman, the Controller, and the Manager of Utilities. The Board shall convene upon call of the Chairman or the other two members and two members shall constitute a quorum. The Board shall act by majority vote. Any member of the Board may from time to time designate a subordinate from his own department to act in his place and stead as a member of the Board.

Any person, firm or corporation (including any holder of a permit to collect and dispose of refuse) affected by the above schedules of rates, or by any revised schedule of rates hereafter placed in effect, and desiring an increase, decrease, or other adjustment or change in, or addition to, such rates or schedules or the regulations appertaining thereto, shall file an application therefor with the Chairman of the Rate Board, who shall thereupon refer the same to the Director of Public Works for hearing, report and recommendation as hereinafter provided, unless the Rate Board shall determine that the application lies beyond its powers or presents no substantial question as to the justice or reasonableness of the rates, schedules of rates or regulations then in effect or is otherwise frivolous, in any of which events the Rate Board shall deny the application without further proceedings thereon.

Within thirty days thereafter, the Director of Public Works shall commence a public hearing upon the application and shall, not less than twenty days in advance of such hearing, cause to be published at least once in the official newspaper notice of the time and place thereof. The Director of Public Works shall be empowered to make or cause to be made such studies and investigations as he may deem pertinent to the application, to continue the hearing from time to time for that purpose, and to introduce the results of such studies and investigations in evidence. The applicant, and any person, firm or corporation affected by the application, shall be entitled to appear at the hearing and be heard. Any such person, firm or corporation desiring notice of further proceedings or action upon the application may file with the Chairman of the Rate Board a written request for such notice, setting forth his name and mailing address.

Upon the conclusion of the hearing and within ninety days after referral to him of the application, the Director of Public

Works shall make and file with the Chairman of the Rate Board a Report setting forth the facts as found by him from the evidence taken and record made at the hearing, and a Recommended Order. The Recommended Order, if it provides for any change in the rates, schedules of rates, or regulations then in effect, shall set forth the date upon which the change is to take effect, which date shall be not less than fifteen days from the date of filing of the Recommended Order with the Chairman of the Rate Board. The Chairman of the Rate Board shall publish the Recommended Order, together with notice of filing thereof, in the official newspaper, and shall mail notice of the filing of the Report and Recommended Order to the applicant and to any others who shall have filed written requests for notice as hereinabove provided.

At any time within fifteen days after filing of the Director of Public Works' Report and Recommended Order with the Chairman of the Rate Board, the applicant or any person, firm or corporation affected by the application, may file with the Chairman of the Rate Board any objections that he may have to the Recommended Order. If no such objections be filed, then the Recommended Order shall be deemed the Order of the Rate Board and shall take effect according to its terms without other or further action by the Rate Board. If any such objections be filed, then the Rate Board, upon not less than ten days notice by mail to the applicant and to others who shall have filed written requests for notice as hereinabove provided, shall hear the objections and, upon the basis of the evidence taken and record made upon the hearing before the Director of Public Works, shall grant or deny the application in whole or in part and shall make such order, to take effect at such time, as may be just and reasonable. In the event of inability or failure of the Rate Board to render a decision within sixty days of the date of filing with it of the Director of Public Works' Report and Recommended Order, then the said Recommended Order shall be deemed the order of the Board and shall take effect upon expiration of said sixty day period.

Any revised rates, schedules of rates or regulations placed in effect pursuant hereto shall be just and reasonable.

An application filed pursuant to this section and denied in whole or in part may not be renewed for a period of one year from the date of filing in the absence of an intervening change in conditions.

(b) Any collection and disposition of rates or charges for establishments other than residences, flats and apartment houses of not more than 600 rooms, shall be subject to contract between the producer and a duly licensed refuse collector.

SECTION 7. It shall be unlawful for any refuse disposer or refuse collector to charge a greater rate for the disposal of refuse or for the collection and disposition of refuse than that fixed in, or pursuant to, Sections 5 and 6(a) of this ordinance.

Nothing herein contained shall be taken or construed as preventing a refuse disposer or a refuse collector from charging a lesser rate or charge for the disposal of refuse or for the collection and disposition of refuse than that fixed in, or pursuant to, Sections 5 and 6(a) of this ordinance.

SECTION 8. Each licensed refuse collector shall be assigned a number by the Director of Public Health. The Director of Public Health shall furnish each collector a metal badge on which is marked the number assigned the collector, who at all times while collecting refuse shall wear said badge in plain view. The Director of Public Health shall collect from each collector for the expense of providing said badge and the issuance of said license the sum of $5. Each vehicle or wagon in which refuse is transported through the streets shall be assigned a number by the Director of Public Health and the number thereof shall be plainly marked thereon.

SECTION 9. The license, as distinguished from a permit herein, of any refuse collector, may be revoked by the Director of Public Health for failure on the part of the refuse collector to properly collect refuse, or for overcharging for the collection of same, or for insolence towards persons whose refuse he is collecting, and it shall be unlawful for any person whose license is so revoked to collect refuse in the City and County of San Francisco.

No license of a refuse collector shall be revoked except upon a hearing of which the refuse collector has been given a notice of at least three days.

SECTION 10. Upon the payment of the rate fixed in or pursuant to Section 6(a) of this ordinance for the collection and

removal of refuse, the person paying the same shall be entitled to, and there shall be delivered to him, a receipt on which shall be shown the amount paid, the premises for which it is paid, the name and number of the collector, the number of the vehicle or wagon, and, in clearly legible print, the schedule of rates applicable to his classification of establishment. On the face of said receipt there shall be printed the following words: "The rates for the collection of refuse are fixed pursuant to initiative ordinance and are printed on the back of this receipt. Complaints as to service should be made to the Department of Public Health."

Upon the payment of a rate fixed by contract pursuant to section 6(b) hereof, the person paying the same shall be given a receipt which shall show the amount paid, the period for which paid, the premises for which paid, the name and number of the collector and the date of payment, and shall bear the notation that the rate charged is subject to private contract.

SECTION 11. Disputes over charges made by collectors or as to the character of the service performed shall be decided by the Director of Public Health. Any charges made in excess of rates fixed pursuant to this ordinance, when determined by the Director of Public Health, shall be refunded to the person or persons who paid the excess charge.

SECTION 12. A refuse collector shall be entitled to payment for the collection of refuse at the end of each month from each householder or landlord served by him and from whom the payment is due.

SECTION 13. The initiative ordinance passed by the People of the City and County of San Francisco on June 14, 1927, providing for the collection and disposition of refuse in the City and County of San Francisco; providing for the licensing of refuse collectors by the Board of Health; fixing the maximum rates or charges for the collection of refuse by licensed refuse collectors from homes and apartment houses; dividing City and County of San Francisco into collection routes; and providing penalties for the violation of the provisions of this ordinance, and all other ordinances in conflict therewith, are herewith repealed.

SECTION 14. Any person, firm or corporation who shall violate any of the provisions of this ordinance shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed five hundred dollars ($500), or by imprisonment in the County Jail for not more than six (6) months, or by both such fine and imprisonment.

SECTION 15. This ordinance shall take effect ten days after the declaration of the official count of the votes cast therefor; provided, however, that for the purpose of issuing licenses to refuse collectors, application may be filed and the licenses issued during the period between the final approval of this ordinance and the date of its taking effect.

SECTION 16. The Controller shall furnish the Director of Public Health with such financial data, including data as to the cost of refuse collections, as may be required by the Director to enable him to perform his functions under this ordinance. The Controller shall likewise make available at any hearing before the Director of Public Works upon an application filed pursuant to section 6 hereof such financial data, including data as to the cost of refuse collections, as the Director of Public Works may deem pertinent to the issues raised by the application. Each collector holding a permit shall keep such records and render such reports as may be required by the Controller to enable him to develop the above-mentioned data, and the Controller shall have access to such records.

SECTION 17. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. It is hereby declared that this act, and each section, subsection, sentence, clause and phrase thereof, would have been passed irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases had been declared unconstitutional. [*Adopted, 1932; amended, 1946; 1954; 1960*]

REGULATION OF STREET RAILWAY CARS

Adopted May 2, 1935

Providing for the Operation of Street Railway Cars by a Motorman and Conductor, Specifying the Entrance Age of Employees on Street Railways, and Providing a Penalty for Violations Thereof.

Be it Ordained by the People of the City and County of San Francisco:

Section 1. Every street railway car and every cable car while carrying passengers in the City and County of San Francisco, except street railway cars acquired or to be acquired by the City and County of San Francisco subsequent to January 1, 1939, shall be in charge of a motorman or a gripman and a conductor; every motorman and gripman and conductor employed in the operation of any street railway car or cable car must be an adult of not less than twenty-one (21) years of age.

This ordinance shall not be repealed, modified or amended except by vote of the electorate.

Section 2. Any person, firm or corporation violating any provision of this ordinance shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined for each offense, not less than Fifty Dollars ($50), nor more than Three Hundred Dollars ($300), or by imprisonment for a term not exceeding six (6) months in the County Jail of the City and County of San Francisco, or by both such fine and imprisonment. [*Adopted, 1935; amended, 1954*]

Appendix C

Regulating Sale of Fresh Meat

Adopted November 5, 1968

Repealing Sections 557, 558 and 798, Part II, Chapter V, San Francisco Municipal Code (Health Code) relating to hours of business for sale of fresh meats and poultry.

Section 1. Sections 557, 558 and 798, Part II, Chapter V (Health Code) of the San Francisco Municipal Code are hereby repealed.

Section 2. No laws shall hereafter be enacted by the governing body of the City and County of San Francisco, State of California, which would prevent the sale of fresh meat and poultry in San Francisco between the hours of 6:00 P.M. and 7:00 A.M., and on Sundays and Holidays, provided that such sales of fresh meat and poultry shall be subject to those laws heretofore or hereafter enacted which regulate the sale of fresh meat and poultry during the other hours of sale.

A

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FIRST
SUPPLEMENT TO
1971 EDITION OF CHARTER

This supplement contains:

(1) History of Charter Legislation.

(2) Supplemental Index.

(3) Supplemental Digest.

(4) Text of Charter Supplement, for elections of Nov. 7, 1972; Nov. 6, 1973; June 4, 1974.

(5) Text of Initiative Ordinance.

SUGGESTIONS FOR USE

In the front of the Charter, substitute new pages of "History of Charter Legislation" for pages to be superseded.

Insert remainder of pages, noted in items 2, 3, 4 and 5 above, at rear of Charter.

ROBERT J. DOLAN
Clerk of the Board of
Supervisors

September 30, 1974

3.500 Boards and Commissions

Each board and commission appointed by the mayor, or otherwise provided by this charter, shall have powers and duties as follows:

(a) To prescribe reasonable rules and regulations not inconsistent with this charter for the conduct of its affairs, for the distribution and performance of its business, for the conduct and government of its officers and employees, and for the administration, custody and protection of property under its control and books, records and papers appertaining to its affairs. The board of supervisors, by ordinance, may provide that rules and regulations of any board or commission, or general orders of any department head issued by authority of any board or commission that are of general public concern shall be posted or otherwise adequately publicized.

(b) To appoint one of its members as president to hold office for such term as each such board or commission by its rules or regulations, not inconsistent with this charter, may prescribe.

(c) To establish such standing or special committees as it shall deem necessary.

(d) To receive, on behalf of the city and county, gifts, devises and bequests for any purpose connected with or incidental to the department or affairs placed in its charge, and to administer, execute and perform the terms and conditions of trusts or any gift, devise or bequest which may be accepted by vote of the people or by the board of supervisors for the benefit of such department or purpose, and to act as trustees, under any such trust, when so authorized to do by the board of supervisors. The title to all real and personal property now owned or hereafter acquired by gift, devise, bequest or otherwise, by and for the purposes of any board or commission shall vest in the city and county.

(e) To require such periodic or special reports of departmental operations, costs and expenditures under its control as may be necessary and, exclusive of the board of supervisors, to submit an annual report to the mayor.

(f) To hold meetings at regular fixed dates and at regular meeting places, which dates or places shall not be changed except as in the manner provided by section 2.200 for the meeting times and places of the board of supervisors. All such meetings and all special meetings and all meetings of all committees, whether composed of more than or less than a majority of the parent board or commission, shall be open and public; provided, however, that nothing contained in this subsection shall be construed to prevent any board or commission or committee thereof, respectively, from holding executive sessions during a regular or special meeting to: (1) consider the appointment, employment or dismissal of a public officer or employee or to hear complaints or charges brought against such officer or employee by

from which they were appointed and for this purpose the next higher civil service rank above H-2 fireman shall be H-20 lieutenant. If any new or additional rank or position is created pursuant hereto pending the adoption of salary standards for such rank or position, the fire commission shall have power to recommend the basic rate of compensation therefor to the board of supervisors and said board of supervisors shall have the power to fix the rate of compensation for said new rank or position and it shall have the power, and it shall be its duty, without reference or amendment to the annual budget, to amend the annual appropriation ordinance and the annual salary ordinance to include the provisions necessary for paying the basic rate of compensation fixed by said board of supervisors for said new rank or position for the then current fiscal year. Thereafter the compensation for said new rank or position shall be fixed as provided for in section 8.405 of this charter; provided, however, nothing contained in this section shall be deemed to interfere with the provisions of section 8.405 of this charter relating to parity or compensation for police officers and firemen for the fourth year of service and thereafter.

Positions of officers and employees of the fire department legally authorized shall continue, and the incumbents therein legally appointed thereto shall continue as the officers and employees of the department under the conditions governing their respective appointments, and except as in this charter otherwise provided. *(Amended June 1974.)*

3.541 Chief of Department; Other Commission Appointments

The fire commission shall appoint a chief of department and a department physician who shall hold office at its pleasure.

Subject to the civil service provisions of this charter, the fire commission shall appoint a secretary, provided, however, that any person who has performed the duties of a secretary continuously for ten years prior to the date of approval of this amendment by the electorate and who on said date shall be performing said duties, is hereby confirmed in said position and thereafter shall hold the same pursuant to said civil service provisions of this charter. *(Amended June, 1974.)*

3.542 Ranks in the Department

The several ranks or positions in the fire department shall be: chief of department; assistant chiefs of department; battalion chiefs; captains; lieutenants; engineers; chief's operators; fire fighters; pilots of fire boats and marine engineers of fire boats; captain, bureau of fire prevention and public safety; lieutenant, bureau of fire prevention and public safety; lieutenant, bureau of fire investigation; inspector, bureau of fire prevention

and public safety; and investigator, bureau of fire investigation, and such other ranks or positions as the fire commission may from time to time create as provided for in section 3.540.

The compensation for these ranks shall be determined as provided in sections 3.540 and 8.405 (c) of this charter. *(Amended June 1974.)*

3.544 Fire Marshal

The chief of the fire department, with the approval of the fire commission, may appoint a fire marshal and assistants. The board of supervisors may empower the fire marshal to sell property saved or salvaged from any fire and for which no owner can be found. The fire marshal may call upon police officers to assist in the protection or salvaging of property and shall have such other powers and duties as by ordinance may be prescribed relative to the protection of property at fires and the storage of property salvaged therefrom. He shall have such duties appertaining to the enforcement of laws relative to the storage, sale and use of flammable and combustible liquids, combustible materials and explosives as the fire commission by rule, or the supervisors by ordinance, may prescribe. *(Amended June 1974.)*

3.547 Power to Remove Structures

The chief of fire department or, in his absence, the chief in charge, may, during a conflagration, cause to be cut down or otherwise remove any buildings or structures for the purpose of checking the progress of such conflagration. *(Amended June, 1974.)*

Part Thirteen: Golden Gate Museums of San Francisco

3.620 Board of Trustees; Composition

The california palace of the legion of honor and the m. h. de young memorial museum are hereby consolidated into one department to be known and designated as the golden gate museums of San Francisco or such other title as may be chosen by not less than two-thirds of the then authorized trustees of the museums. The management, superintendence and operation thereof, and the land set aside therefor, shall be vested in a board consisting of 32 trustees, of which the mayor and the president of the recreation and park commission shall be ex officio members. With the exception of certain members of the initial board and the ex officio members, each member shall be elected for a term of five years.

The initial board shall consist of the ex officio members and the members of the boards of the california palace of the legion of honor and the m. h. de

young memorial museum as constituted on November 7, 1972. At the first meeting the members shall elect from among their number a person to fill the office of president and shall establish a method for determining which among them shall serve full five year terms and which shall serve for lesser periods of time in order to establish a board with a rotating membership. The office of president shall carry a term of five years. The office of president and all subsequent vacancies in said board howsoever occurring shall be filled by the vote of a majority of the trustees in office at the time. On a vote of the majority of trustees in office at the time the number of trustees may be increased or decreased from time to time as needed, provided that a vote to decrease the number of trustees shall affect only vacant offices in the authorized number of trustees occurring from whatever cause, and provided further that at no time shall the total number of trustees exceed 32. None of said trustees shall receive any compensation for his or her services, nor need they be residents of the city and county.

This section, and sections 3.621, 3.622, 3.623, 3.624 as herein added, and section 6.404 as herein amended, shall take effect on the filing with the secretary of state of the legislative resolution of approval thereof, except that the existing boards of trustees and departments shall continue for all purposes pertaining to the current fiscal year until the first day of the fiscal year next succeeding the filing of such resolution and the board of trustees of the golden gate museums shall have power prior to such date only in matters pertaining to its own organization and to such next succeeding fiscal year and thereafter. *(Added November, 1972.)*

3.621 Functions; Powers and Duties

The board shall have exclusive charge of said museums, the lands set aside therefor, and their affairs including designating the days and hours during which they shall be open and the charges, if any, to be made for admittance thereto, and of all real and personal property belonging to the museums, or which may be acquired by loan, purchase, gift, devise, bequest or otherwise, when not inconsistent with the terms and conditions of the loan, gift, devise or bequest, and shall have the further power to insure loan exhibits. It shall meet for its purposes four times annually, at least once in three months, and at such other times as the president or any six trustees may appoint, in a place to be provided for the purpose. It shall elect an executive committee consisting of the president and six other trustees which shall have such powers between meetings as are delegated to it by the board, which may include the full powers of the board. All subsequent vacancies in said committee howsoever occurring shall be filled by the vote of a majority of the trustees in office at the time. The president may appoint such further committees as he shall deem appropriate for the purpose of advising the

board and executive committee on matters pertaining to the museums. The board further may designate such persons as it deems appropriate "honorary trustees." Each honorary trustee may have a seat on the board and may participate in debate, but said honorary trustee is not entitled to vote on any matters before the board for its consideration.

The board shall have the power to maintain, repair or reconstruct existing buildings and construct new buildings and to make and enter into contracts relating thereto, subject, however, insofar as city funds are to be used, to the budget and annual appropriation ordinance. The park commission shall maintain and care for the grounds of the museums, and shall furnish the monies for the necessary repair and embellishment of the grounds and unoccupied parts. *(Added November, 1972.)*

3.622 Director and Other Employees

The board shall appoint a director, three assistant directors, curators, and an executive secretary, who shall hold office at its pleasure. It shall appoint such other assistants and employees as may be necessary, who shall be subject to the civil service and salary standardization provisions of this charter.

The civil service rights of persons employed under the civil service provisions of this charter in either the california palace of the legion of honor or the m. h. de young memorial museum departments shall continue in the golden gate museums department. Seniority of any such employees who have acquired civil service status in either the california palace of the legion of honor under the provisions of section 50 of the charter, as amended, and effective January 11, 1943, or in the m. h. de young memorial museum under the provisions of section 51 of the charter, as amended, and effective January 11, 1943, shall be determined for all purposes in each instance by the date of commencement of full time continuous service with either of such departments *(Added November, 1972.)*

3.623 Accounts and Reports

The executive secretary of the board of trustees of the golden gate museums shall keep a full account of all property, money, receipts and expenditures, and a record of all its proceedings, and shall file annually a report with the controller. *(Added November, 1972.)*

3.624 Compliance with Terms of the Donation

It is the intention that the administration and control of the golden gate museums of san francisco shall be continued with the powers granted and under the conditions imposed by the terms of the respective donations to the california palace of the legion of honor and the m. h. de young memorial

the next highest number of votes respectively shall expire at twelve o'clock noon on the 8th day of January, 1975.

At the general election in 1974 there shall be elected three members of the governing board of the community college district of the city and county to succeed those members thereof whose respective terms of office expire on the 8th day of January, 1975, and at the general election in each fourth year after 1974, the successors to said three members of the governing board of the community college district shall be elected, and at the general election in 1976 there shall be elected four members of the governing board of the community college district of the city and county to succeed those members thereof whose respective terms of office expire on the 8th day of January, 1977, and at the general election in each fourth year after 1976, the successors to said four members of the governing board of the community college district of the city and county shall be elected. Except as set forth herein, all terms of office of members of the governing board of the community college district of the city and county shall commence at twelve o'clock noon on the 8th day of January following the date of their election *(Amended November, 1972).*

6.403 Business License Taxes

No tax based on, or measured by, gross receipts shall be imposed after June 30, 1973, on any seller or manufacturer of goods, wares or merchandise if such person also is liable during the same period for payment of a tax imposed by the city and county based on, or measured by, payroll expense; provided, however, nothing herein shall prohibit any permit or license tax in accordance with or under the authority of any local health, sanitary or other ordinance under the police power. *(Amended November, 1972).*

6.404 Appropriations for Maintenance of Certain Cultural Facilities

(a) The board of supervisors shall annually appropriate to the war memorial board an amount sufficient to defray the cost of maintaining, operating and caring for the war memorial.

(b) The supervisors, subject to the budget provisions of this charter, shall, for the purpose of maintaining, operating, providing for the security of, expanding and superintending the golden gate museums and the purchase of objects of art, literary productions and other personal property, provide in each annual budget of the city and county an amount sufficient for the maintenance, operations, and superintendence thereof, and such additional amount as is necessary to take care of the increased demand for help, buildings, repairs, and care of the museums. Such amounts shall be credited to and deposited in a fund in the treasury of the city and county to be known as the "golden gate museums fund," or such other title as may be chosen by

not less than two-thirds of the then authorized trustees of the museums and shall be used exclusively for the purposes thereof.

(c) Funds necessary for the maintenance, operation, and continuance of the steinhart aquarium shall be furnished by the city and county to the california academy of sciences. The board of supervisors is empowered to furnish to said california academy of sciences such funds as the board shall deem proper for the maintenance, operation, and continuance of any or all other of said buildings and improvements heretofore or hereafter erected. *(Amended November, 1972.)*

7.308 Bonds for Residential Rehabilitation Assistance

Notwithstanding any other provision of this charter, the board of supervisors may by ordinance from time to time authorize the issuance of bonds to establish a fund for the purpose of making loans to assist property owners with the rehabilitation of property in areas which shall be designated in advance by the board of supervisors as rehabilitation assistance areas or for the purpose of refunding such bonds. The issuance of such bonds shall be pursuant to procedures adopted by ordinance of the board of supervisors. The repayment of principal, interest and other charges on such loans to property owners, together with such other moneys as the board of supervisors may, in its discretion, make available therefor, shall be the sole source of funds pledged by the city and county for repayment of such bonds. Bonds issued under the provisions of this section shall not be deemed to constitute a debt or liability of the City and County of San Francisco or a pledge of the faith and credit of the City and County of San Francisco, but shall be payable solely from the funds specified in this section. The issuance of such bonds shall not directly, indirectly, or contingently obligate the board of supervisors to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment. *(Added November, 1973.)*

7.403.1 Transfer of Park and Other Lands to the National Park Service of the United States Department of the Interior

(a) Upon approval by the recreation and park commission, the board of supervisors may by ordinance authorize transfer by deed to the National Park Service of the United States Department of the Interior for inclusion in the Golden Gate National Recreation Area as presently defined and delimited by Public Law 92-589; 86 Stat. 1299, of any interest which the City and County of San Francisco has in lands restricted to use for recreation or park purposes or otherwise under the exclusive control, management or direction of the recreation and park commission, except the premises and grounds of the Palace of the Legion of Honor and Lincoln Park Golf

tion obtained by him by virtue of his office or employment to advance the financial or other private interest of himself or others.

(d) No person who has served as an officer or employee of the city and county s all within a period of two (2) years after termination of such service or employment appear before the board or agency of the city and county of which he was a member in order to represent any private interest, provided, however, that said officer or employee may appear before said board or agency for the purpose of representing himself.

(e) No officer or employee of the city and county shall receive, directly or indirectly, any compensation, reward or gift from any source except compensation from the City and County of San Francisco, or any other governmental agency to which he has been duly appointed for any service, advice, assistance or other matter related to the governmental processes of the city and county, except for fees for speeches or published writing.

(f) No officer or employee shall have an interest in any matter for his consideration or determination which arises from a close business association of a continuing nature. A close business association of a continuing nature means any undertaking for profit, including, but not limited to, a corporation, partnership, officeholding or employment in or by any labor or employee organization, trust, proprietorship, association, or joint venture.

(g) The civil service commission with respect to officers and employees whose positions are subject to the civil service provisions of the charter other than officers and members of the fire and police departments, the fire commission with respect to officers and members of the fire department and the police commission with respect to officers and members of the police department, are each empowered to prescribe and enforce such reasonable rules and regulations as each commission deems necessary to effectuate the purposes and intent of this section. Such rules and regulations may provide for restrictions against activities, employments and enterprises other than those described or mentioned herein when such restrictions are found necessary for the preservation of the honor or efficiency of the city and county civil service or for the protection of the best interests of the city and county service in any respect.

(h) Any person violating any of the provisions of this section shall be guilty of a misdemeanor and upon a final judgment of conviction of same, such person shall be removed from office.

(i) A prohibited conflict of interest exists whenever an officer or employee of the city and county must pass judgment upon a matter which either directly or indirectly affects a private party who is a child or spouse of the officer or employee.

(j) An officer or employee shall not be deemed interested in or in the

performance of any contract, work, business, or the sale of any article, the expense, price or consideration of which is payable from the treasury, within the meaning of subsection (a) unless such contract, work, business or sale is awarded, entered into, or authorized by him in his capacity as officer or employee, or by an officer or employee under his supervision and control, or by a board or commission of which he is a member.

(k) An officer of the city and county shall not be deemed to have a conflicting interest in any such contract, work, business or sale awarded, entered into or authorized by a board or commission of which he is a member if he has only a remote interest therein and the fact of such interest is disclosed to the board or commission of which he is a member and noted in its official records and the board or commission authorizes, approves, or ratifies the contract in good faith by a vote of its membership sufficient for the purpose without counting the vote or votes of the officer or member with the remote interest, unlzss the contract must be awarded to the highest or lowest responsible bidder as the case may be on a particular day and the vote of such officer or member is necessary to a quorum on that day.

As used in this section "remote interest" means:

(1) The ownership of less than three per cent of the shares of a corporation for profit;

(2) That of an officer in being reimbursed for his actual and necessary expenses incurred in the performance of official duty; provided, however, that the city and county treasurer is solely responsible for such reimbursement and that only those expenses which are strictly necessary for the performance of that duty shall be reimbursed;

(3) That of a parent in the earnings of his minor child for personal services;

(m) All contracts, work, business or sales herein mentioned heretofore awarded, entered into or authorized by any board or commission of the City and County of San Francisco in which an officer or member had a remote interest as hereinabove defined are hereby ratified and confirmed.

(n) The provisions of subsections (j) through (m) of this section shall not be applicable to any officer or employee who influences or attempts to influence the award, execution or authorization of any contract, work, business or sale, the expense, price or consideration of which is payable from the treasury, in which he has a direct or indirect interest.

(o) No member of any board or commission of the city and county shall knowingly vote on or in any way attempt to influence the outcome of governmental action on any measure or question involving his own character or conduct, his right as a member, his appointment to any office, position or employment, or on any measure or question wherein the said member's financial interest is immediate, particular, and distinct from the

the board of trustees of said california academy of sciences, the curators and other scientific and professional personnel, and occupants of part-time positions for which a total compensation of less than $80.00 per month is provided by the city and county, inclusive of allowance for maintenance and other incidental benefits. Positions held by employees of the city and county at said buildings and improvements shall be subject to the civil service provisions of this charter and the compensation thereof shall be subject to the salary standardization provisions of this charter, in like manner and extent in all respects as positions and compensations of employments in the city and county service generally, notwithstanding anything to the contrary contained in the charter or ordinances of said city and county. The chief administrative officer shall be the appointing officer as provided in this charter.

(e) All persons employed in the operating service of any public utility hereafter acquired by lease or under any other temporary arrangement, under which the city acquires the right to operate said utility, shall be continued in their respective positions and shall be deemed appointed to such positions under, and entitled to all, the benefits of the civil service provisions of this charter for the period of time during which the city shall continue to operate said utility under said lease or other temporary arrangement. Should the city permanently acquire said utility, said persons shall come into the permanent employ of the city and county in their respective positions and shall be deemed permanently appointed thereto under the civil service provisions of the charter and shall be entitled to all the benefits thereof, all subject to the provisions contained in section 8.300 (f) and 8.450 of the charter; provided, however, that said employees who are taken over into the employ of the city under said lease or other temporary arrangement shall not be subject to the residential qualifications of the charter, during the term of said lease or other temporary arrangement. All employees of any such utility, acquired or operated by the city under any lease or other temporary arrangement, who come into the employ of said utility after the temporary acquisition of same, shall be subject to the civil service provisions of the charter. The civil service rights of any person who comes into the service of the city under any lease or other temporary arrangment for the acquisition and operation of said utility shall cease and terminate upon the expiration of said lease or other temporary arrangement.

(f) All persons employed in the operating service of any public utility hereafter acquired by the city and county, at the time the same is taken over by the city and county, and who shall have been so employed for at least one year prior to the date of such acquisition, shall be continued in their respective positions and shall be deemed appointed to such positions, under, and entitled to all the benefits of, the civil service provisions of this

charter.

(g) All employees engaged in public utility work at the time this charter shall go into effect, and who have been permanently appointed to their respective positions in conformity with the civil service provisions of this charter, shall except as otherwise provided by this charter become employees of the public utilities commission under the classification held by each such employee at such time.

(h) Any employee who was a permanent civil service appointee assigned to the airport department under the public utilities commission immediately prior to the effective date of this section, shall be continued without loss in civil service rights as an appointee of the airport department, provided that civil service rights as they relate to layoff in the event of lack of work or lack of funds of all permanent employees of the public utilities commission, including the airport department, immediately prior to the effective date of this section, shall be continued without loss in the same manner and to the same extent as though the airport department had not by these amendments been created a separate city function under the airports commission. *(Amended November, 1973.)*

8.320 Qualifications of Applicants

(a) Any person having the qualifications prescribed by section 8.100 of this charter may submit himself for any examination under conditions established by the civil service commission. Provided, however, applicants for positions as motorman, conductor or bus operator on the municipal railway need not be residents of the city and county at the time of application, examination or appointment, but must become residents within the meaning of section 8.100 within a reasonable time, not to exceed six months, after completion of the probationary period provided in section 8.340.

(b) Applicants for entrance positions in the uniformed force of the fire department shall not be less than nineteen years of age at the time of taking the examination, nor less than twenty years of age or more than thirty-two years of age at the time of appointment and shall have the physical qualifications required for enlistment in any of the armed forces of the United States.

(c) Applicants for entrance positions in the uniformed force of the police department shall not be less than twenty years of age at the time of taking the examination, nor less than twenty-one years of age or more than thirty-five years of age at the time of appointment and shall have the physical qualifications required for enlistment in any of the armed forces of the United States.

(d) The commission shall advertise and may take further appropriate

means to interest suitable applicants. When examinations for promotion are to be held, the commission shall give notice thereof to all persons in positions entitling them under the civil service rules, to participate in such examination, by posting information thereof in the office of the commission for a period of ten days and notifying the office, agency, or department concerned. *(Amended November 1973.)*

Section 8.320.1 Qualifications of Applicants for H2 Fireman from List E-25

Notwithstanding the provisions of Section 8.320 of the Charter, any applicant who has successfully completed the examination procedures for the entrance position Class H2, Fireman, and who would otherwise be eligible for appointment from list E-25 adopted December 18, 1973, shall continue to be eligible for appointment for the duration of list E-25, Class H2, Fireman, even though such applicant is more than 32 years of age at the time of appointment. *(Added June 1974.)*

8.322 Protest of Written Questions and Answers

After the written portion of a civil service examination has been held, and prior to the scoring thereof, the questions used and the answers thereto shall be available for review by the participants. This review period shall not apply to questions and answers on any continuous or standardized entrance or concurrent entrance and promotive written test. During the review period, participants shall have an opportunity to protest questions or answers they believe to be incorrect or improper. The written portion of the examination shall not be scored until all protested items have been acted on and an official rating key has been adopted. After the rating key has been adopted, and the identification sheets have been opened, no further changes in the rating key shall be made. *(Amended November 1973.)*

8.323 Protest of Tentative List of Eligibles

Following the completion of any examination, a tentative list of eligibles shall be posted for the inspection of the public and of participants. The posting period shall be for a minimum of three (3) working days for entrance examinations or five (5) working days for promotional examinations. During this period the civil service commission may charge a fee of one dollar ($1.) for the inspection of the papers of any one eligible, which fee is waived for eligibles who wish to inspect their own papers. Inspection of papers shall include all documents supporting the eligible's rank and score, except neither the identity of the examiner giving any mark or grade

in an oral examination or the questions and answers on any continuous or standardized entrance or concurrent entrance and promotive written test, shall be provided. The civil service commission shall receive any protests concerning ratings during the posting period for the purpose of correcting errors. If no protests are received during the posting period, the eligible list is automatically adopted. If protests are received, the investigation and action of the civil service commission shall be expedited so that final adoption of the eligible list is not delayed beyond sixty (60) days after the date of posting. *(Amended November, 1973.)*

8.330 Duration of Lists of Eligibles

The civil service commission may remove all names from the list of eligibles after they have remained thereon for more than two years and all names thereon shall be removed at the expiration of four years. The commission may, however, provide in the examination announcement that the list of eligibles secured thereby shall automatically expire at a date not less than two or more than four years after the adoption of such list. *(Amended November, 1973.)*

8.332 Temporary and Emergency Appointments

When no list of eligibles exists or no eligible is available on an existing list for a position in the class requisitioned by the appointing officer, and immediate service in the position is required by the appointing officer and another list exists which is deemed by the civil service commission to the suitable to provide temporarily the service desired, the commission shall certify for civil service temporary appointment an eligible from such list; if no such other list deemed by the commission to be suitable exists, the commission pursuant to its rules may authorize the appointing officer to make a non-civil service or emergency appointment thereto for a period not exceeding one hundred and thirty working days. Non-civil service or emergency appointments extended beyond ninety days must be approved by the civil service commission. Such non-civil service or emergency appointment, however, shall cease prior to the expiration of such one hundred and thirty working days at the time a civil service eligible reports for duty as provided in section 8.329 of the charter.

If a list of eligibles exists for the position requisitioned, but immediate service is deemed necessary by the appointing officer pending the time an eligible from such list is certified and reports for duty as provided in section 8.329 of the charter, the commission may authorize the appointing officer to make a non-civil service or emergency appointment thereto for a period

not exceeding thirty working days. Such non-civil service or emergency appointment, however, shall cease prior to the expiration of such thirty working days at the time a civil service eligible reports for duty as provided in section 8.329 of this charter.

No person shall be compensated under any non-civil service or emergency appointment or appointments as authorized under the provisions of the foregoing paragraphs of this section for a period exceeding one hundred and thirty working days in any fiscal or calendar year, and no claim or warrant therefor shall be approved, allowed or paid for any compensation in excess of such one hundred and thirty working days in any fiscal or calendar year.

If no eligibles are available for appointment to a premanent position in the class requested by the appointing officer the commission shall immediately hold an examination and establish an eligible list for such position. If its annual appropriation is insufficient to meet the cost of said examination, it shall report to the mayor the estimated cost thereof, and the mayor shall request and the supervisors shall make supplemental appropriation therefor in the manner provided herein for supplemental appropriations. *(Amended November, 1973.)*

8.340 Dismissal During Probation Period

Any person appointed to a permanent position shall be on probation for a period of six months, provided that the probationary period for entrance positions in the uniform rank of the police department, fire department and sheriff's department shall be for one year. At any time during the probationary period the appointing officer may terminate the appointment upon giving written notice of such termination to the employee and to the civil service commission specifying the reasons for such termination. Except in the case of uniformed members of the police and fire departments the civil service commission shall inquire into the circumstances. If the appointment resulted from an entrance examination the commission may declare such person dismissed or may return the name to the list of eligibles under such conditions for further appointment as the commission may deem just. If the appointment resulted from a promotional examination the employee shall have the right of appeal and hearing before the civil service commission. The commission shall render a decision within thirty days after receipt of the notice of termination and (a) may declare such person dismissed; or (b) order such person reinstated in his position without prejudice, and the commission may in its discretion order that the employee be paid salary from time of the termination of his appointment; or (c) order the return of

such person to the position from which he was promoted. The decision of the commission shall be final. Immediately prior to the expiration of the probationary period the appointing officer shall report to the civil service commission as to the competence of the probationer for the position, and if competent, shall recommend permanent appointment. *(Amended November, 1973.)*

8.423 Revision of Schedules and Compensation

In January of each year, at a public hearing, the health service board shall review and determine the adequacy of medical care provided for members of the system and the adequacy of fee schedules and the compensation paid for all services rendered and it may make such revisions therein as it deems equitable but such revisions shall not become effective until approved by ordinance of the board of supervisors adopted by three-fourths of its members.

Commencing in 1973, the health service board shall, prior to the second Monday in January in each year, conduct a survey of the ten counties in the State of California, other than the City and County of San Francisco, having the largest populations to determine the average contribution made by each such county toward the providing of health care plans, exclusive of dental or optical care, for each employee of such county. In accordance with said survey, the health service board shall determine the average contribution made with respect to each employee by said ten counties toward the health care plans provided for their employees and on or before the second Monday in January of each year, the health service board shall certify to the board of supervisors the amount of such average contribution. For the purposes of section 8.428, the amount of such average contribution shall be "the average contribution."

The health service board shall have the responsibility to obtain and disseminate information to its members with regard to plan benefits and costs thereof. All expenses in connection with obtaining and disseminating said information and the investment of such fund or funds as may be established, including travel and transportation costs, shall be borne by the system from reserves in the health service fund but only upon adoption of a resolution by the health service board approving such expenses. *(Amended November, 1972.)*

8.428 Health Service System Fund

There is hereby created a health service system fund. The costs of the health service system shall be borne by the members of the system and retired persons, the City and County of San Francisco because of its members and retired persons and because of the members and retired persons of the

parking authority of the city and county of san francisco, the san francisco unified school district because of its members and retired persons and the san francisco community college district because of its members and retired persons. A retired person as used in this section means a former member of the health service system retired under the san francisco city and county employees' retirement system.

The city and county, the school district and the community college district shall each contribute to the health service fund amounts sufficient for the following purposes, and subject to the following limitations:

(a) All funds necessary to efficiently administer the health service system.

(b) For the fiscal year commencing July 1, 1973, the city and county, the school district and the community college district shall contribute to the health service system fund with respect to each of their members an amount equal to one-half of "the average contribution," as certified by the health service board in accordance with the provisions of section 8.423. For the fiscal year commencing July 1, 1974, and each fiscal year thereafter, the city and county, the school district and the community college district shall contribute to the health service system fund with respect to each of their members an amount equal to "the average contribution," as certified by the health service board in accordance with the provisions of section 8.423.

(c) Monthly contributions required from retired persons participating in the system shall be equal to the monthly contributions required from members in the system, except that the total contributions required from retired persons who are also covered under Medicare shall be reduced by an amount equal to the amount contributed monthly by such persons to Medicare; provided, however, that for the fiscal year commencing July 1, 1973, and for each fiscal year thereafter, the city and county, the school district and the community college district shall contribute funds sufficient to defray the difference in cost to the system in providing the same health coverage to retired persons as is provided for active employee members.

(d) The city and county, the san francisco unified school district and the san francisco community college district shall not contribute to the health service system fund any sums, except as hereinbefore set forth, on account of participation in the benefits of the system by members' dependents, retired persons' dependents, persons who retired and elected not to receive benefits from san francisco city and county employees' retirement system and resigned employees and teachers defined in section 8.425, and any employee whose compensation is fixed in accordance with sections 8.401, 8.403, or 8.404 of this charter and whose compensation therein includes an additional amount for health and welfare benefits or whose health service costs are reimbursed through any fund established for said purpose by

ordinance of the board of supervisors.

It shall be the duty of the board of supervisors, the board of education and the governing board of the community college district annually to appropriate to the health service system fund such amounts as are necessary to cover the respective obligations of the city and county, the san francisco unified school district and the san francisco community college district hereby imposed. Contributions to the health service system fund of the city and county, of the school district and of the community college district shall be charged against the general fund or the school, utility, bond or other special fund concerned.

The amendments of this section contained in the proposition therefor submitted to the electorate on November 7, 1972, shall be effective July 1, 1973. *(Amended November, 1972.)*

8.452 Fire Department

The chief of department shall recommend and the fire commission shall provide by rule for work schedules or tours of duty for the officers and members occupying the several ranks of the fire department; provided, however, that all tours of duty established for officers and members assigned to the fire-fighting companies, including the salvage corps, shall start at eight o'clock A.M. No such officer or member shall be required to work more than one hundred and twenty (120) hours in any fifteen-day period, nor shall any officer or member be required to work more than twenty-four consecutive hours except in case of a conflagration, emergency, or disaster requiring the services of more than the available on-duty officers and members of the uniformed force of the department. Officers and members may exchange watches with permission of the chief of department and time worked on such exchange of watches shall not be construed as time in violation of the limitation of 120 hours in any fifteen-day period nor twenty-four consecutive hours. Each such officer and each such member shall be entitled to at least one (1) day off duty during each week.

When, in the judgment of the chief of department, it is in the public interest that any such officer or member shall work on his day off and said officer or member consents to so work, he may at the direction of the chief of department work on said day off, and in addition to the regular compensation provded for said officer or member as set forth in this charter, said officer or member shall be entitled to be compensated at his regular rate of pay as provided for herein for said extra time served, or he shall be allowed the equivalent time off.

In any computation in the administration of the San Francisco City and County Employees' Retirement System in which the compensation, as

defined in any provisions relating to the retirement system, is a factor, compensation for overtime provided for in this section shall be excluded, and no such overtime compensation shall be deemed as compensation for any purpose relating to such retirement provisions.

Officers and members of the uniformed force shall be entitled to the days declared to be holidays for employees whose compensations are fixed on a monthly basis in the schedule of compensations adopted by the board of supervisors, pursuant to the provisions of section 8.401 of the charter, as additional days off with pay. Officers or members required to perform service in said department on said days shall be compensated on the basis of straight time as herein computed or shall be granted equivalent time off duty with pay in the judgment of the fire commission.

For payroll purposes, that portion of each tour of duty which falls within each calendar day shall constitute a single tour of duty. The rate of compensation for the service performed by officers or members on a holiday or for service performed on an assigned day off, as in this charter provided, shall be calculated by dividing the annual rates of pay for each fiscal year by the number of single tours of duty as scheduled for the several ranks in the fire fighting companies in said fiscal year. *(Amended June, 1974.)*

8.509 Retirement - Miscellaneous Officers and Employees On and After July 1, 1947

Miscellaneous officers and employees, as defined in this section, who are members of the retirement system under this section of the charter on February 1, 1969, and persons who become miscellaneous officers and employees after February 1, 1969, shall be members of the retirement system, subject to the following provisions of this section, in addition to the provisions contained in sections 3.670, 3.672, 8.500, 8.510 and 8.520 of this charter notwithstanding the provisions of any other section of the charter, provided that the retirement system shall be applied to persons employed on a part-time, temporary or substitute basis only as the board of supervisors shall determine by ordinance enacted by three-fourths vote of all members of the board. Miscellaneous officers and employees of the said departments who are members of the retirement system under section 8.507 of the charter on February 1, 1969 shall continue to be members of the system under section 8.507 and shall not be subject to any of the provisions of this section, except as specifically provided in this section.

(A) The following words and phrases as used in this section, unless a different meaning is plainly required by the context, shall have the following meaning:

"Retirement allowance," or "allowance," shall mean equal monthly payments, beginning to accrue upon the date of retirement, and continuing

for life unless a different term of payment is definitely provided by the context.

"Compensation," as distinguished from benefits under the workmen's compensation laws of the State of California shall mean all remuneration whether in cash or by other allowances made by the city and county, for service qualifying for credit under this section.

"Compensation earnable" shall mean the compensation as determined by the retirement board, which would have been earned by the member had he worked, throughout the period under consideration, the average number of days ordinarily worked by persons in the same grade or class of positions as the positions held by him during such period and at the rate of pay attached to such positions, it being assumed that during any absence, he was in the position held by him at the beginning of the absence, and that prior to entering city-service he was in the position first held by him in city-service.

"Benefit" shall include "allowance," "retirement allowance," and "death benefit."

"Average final compensation" shall mean the average monthly compensation earned by a member during any five consecutive years of credited service in the retirement system in which his average final compensation is the highest, unless the board of supervisors shall otherwise provide by ordinance enacted by three-fourths vote of all members of the board.

For the purposes of the retirement system and of this section, the terms "miscellaneous officer or employee," or "member," as used in this section shall mean any officer or employee who is not a member of the fire or police departments as defined in the charter for the purpose of the retirement system, under section 8.507 of the charter.

"Retirement system" or "system" shall mean San Francisco City and County Employees' Retirement System as created in section 8.500 of the charter.

"Retirement board" shall mean "retirement board" as created in section 3.670 of the charter.

"Charter" shall mean the charter of the City and County of San Francisco.

Words used in the masculine gender shall include the feminine and neuter genders, and singular numbers shall include the plural and the plural the singular.

"Interest" shall mean interest at the rate adopted by the retirement board.

(B) Any member who completes at least twenty years of service in the aggregate credited in the retirement system and attains the age of fifty

years, or at least ten years of service in the aggregate credited in the retirement system, and attains the age of sixty years, said service to be computed under subsection (G) hereof, may retire for service at his option. Members shall be retired on the first day of the month next following the attainment by them of the age of sixty-five years. A member retired after reaching the age of sixty years shall receive a service retirement allowance at the rate of 2 per cent of said average final compensation for each year of service; provided, however, that upon the compulsory retirement of a member upon his attainment of the age of sixty-five years, if the allowance available to such member pursuant to the provisions of subsection (F) of this section shall be greater in amount than the service retirement allowance otherwise payable to such member under this subsection (B), then such member shall receive as his service retirement allowance, in lieu of the allowance otherwise payable under this subsection (B), an allowance computed in accordance with the formula provided in said subsection (F). The service retirement allowance of any member retiring prior to attaining the age of sixty years, after rendering twenty years or more of such service and having attained the age of fifty years, computed under subsection (G), shall be an allowance equal to the percentage of said average final compensation set forth opposite his age at retirement, taken to the preceding completed quarter year, for each year of service, computed under subsection (G):

Age at Retirement	Per cent for Each Year of Credited Service
50	1.0000
50¼	1.0250
50½	1.0500
50¾	1.0750
51	1.1000
51¼	1.1250
51½	1.1500
51¾	1.1750
52	1.2000
52¼	1.2250
52½	1.2500
52¾	1.2750
53	1.3000
53¼	1.3250
53½	1.3500
53¾	1.3750
54	1.4000

Age at Retirement	Per Cent for Each Year of Credited Service
54¼	1.4250
54½	1.4500
54¾	1.4750
55	1.5000
55¼	1.5250
55½	1.5500
55¾	1.5750
56	1.6000
56¼	1.6250
56½	1.6500
56¾	1.6750
57	1.7000
57¼	1.7250
57½	1.7500
57¾	1.7750
58	1.8000
58¼	1.8250
58½	1.8500
58¾	1.8750
59	1.9000
59¼	1.9250
59½	1.9500
59¾	1.9750

In no event shall a member's retirement allowance exceed seventy-five per cent of his average final compensation.

Before the first payment of a retirement allowance is made, a member retired under this subsection or subsection (C) of this section, may elect to receive the actuarial equivalent of his allowance, partly in an allowance to be received by him throughout his life, and partly in other benefits payable after his death to another person or persons, provided that such election shall be subject to all the conditions prescribed by the board of supervisors to govern similar elections by other members of the retirement system, including the character and amount, of such other benefits; provided, however, that at any time within 30 days after the date on which his compulsory retirement would otherwise have become effective, a member who has attained the age of 65 years may elect, without right of revocation, to withdraw his accumulated contributions, said election to be exercised in writing on a form furnished by the retirement system and filed at the office

of said system and a member so electing shall be considered as having terminated his membership in said system on the date immediately preceding the date on which his compulsory retirement would otherwise have become effective and he shall be paid forthwith his accumulated contributions, with interest credited thereon. Notwithstanding the provisions of section 8.514 of this charter, the portion of service retirement allowance provided by the city and county's contributions shall be not less than $100 per month upon retirement after thirty years of service and after attaining the age of sixty years, and provided further that as to any member within fifteen years or more of service at the compulsory retirement age of sixty-five, the portion of the service retirement allowance provided by the city and county's contribution shall be such that the total retirement allowance shall not be less than $100 per month. In the calculations under this subsection of the retirement allowance of a member having credit for service in a position in the evening schools and service in any other position, separate retirement allowances shall be calculated in the manner prescribed for each class of service, the average final compensation in each case being that for the respective class of service; provided that the aggregate retirement allowance shall be taken into account in applying the provisions of this subsection providing for a minimum retirement allowance. Part time service and compensation shall be reduced to full time service and compensation in the manner prescribed by the board of supervisors, and when so reduced shall be applied on full time service and compensation in the calculation of retirement allowances.

(C) Any member who becomes incapacitated for performance of duty because of disability determined by the retirement board to be of extended and uncertain duration, and who shall have completed at least ten years of service credited in the retirement system in the aggregate, computed as provided in subsection (G) hereof, shall be retired upon an allowance of one and eight-tenths per cent of the average final compensation of said member, as defined in subsection (A) hereof for each year of credited service, if such retirement allowance exceeds forty per cent of his average final compensation; otherwise one and eight-tenths per cent of his average final compensation multiplied by the number of years of city-service which would be credited to him were such city-service to continue until attainment by him of age sixty, but such retirement allowance shall not exceed forty per cent of such average final compensation. In the calculation under this subsection of the retirement allowance of a member having credit for service in a position in the evening schools and service in any other position, separate retirement allowances shall be calculated, in the manner prescribed, for each class of service, the average final compensation in

each case being that for the respective class of service; provided that the average final compensation upon which the minimum total retirement allowance is calculated in such case shall be based on the compensation earnable by the member in the classes of service rendered by him during the one (1) year immediately preceding his retirement. Part time service and compensation shall be reduced to full time service and compensation in the manner prescribed by the board of supervisors, and when so reduced shall be applied as full time service and compensation in the calculation of retirement allowances. The question of retiring a member under this subsection may be brought before the retirement board on said board's own motion, by recommendation of any commission or board, or by said member or his guardian. If his disability shall cease, his retirement allowance shall cease, and he shall be restored to service in the position or classification he occupied at the time of his retirement.

(D) No modification of benefits provided in this section shall be made because of any amounts payable to or on account of any member under workmen's compensation laws of the State of California.

(E) If a member shall die, before his retirement, regardless of cause:

(1) If no benefit is payable under subdivision (2) of this subsection (E), a death benefit shall be paid to his estate or designated beneficiary consisting of the compensation earnable by him during the six months immediately preceding death, plus his contributions and interest credited thereon.

(2) If, at the date of his death, he was qualified for service retirement by reason of service and age under the provisions of subsection (B) of this section, and he has designated as beneficiary his surviving spouse, who was married to him for at least one full year immediately prior to the date of his death, one-half of the retirement allowance to which the member would have been entitled if he had retired for service on the date of his death shall be paid to such surviving spouse who was his designated beneficiary at the date of his death, until such spouse's death or remarriage, or if there be no surviving spouse, to the unmarried child or children of such member under the age of eighteen years, collectively, until every such child dies, marries or attains the age of eighteen years, provided that no child shall receive any allowance after marrying or attaining the age of eighteen years. If, at the death of such surviving spouse, who was receiving an allowance under this subdivision (2), there be one or more unmarried children of such member under the age of eighteen years, such allowance shall continue to such child or children, collectively, until every such child dies, marries or attains the age of eighteen years, provided that no child shall receive any allowance after marrying or attaining the age of eighteen years. If the total of the payments of allowance made pursuant to this subdivision (2) is less than the benefit which was otherwise payable under subdivision (1) of this

subsection, the amount of said benefit payable under subdivision (1) less an amount equal to the total of the payments of allowance made pursuant to this subdivision (2) shall be paid in lump sum as follows:

(a) If the person last entitled to said allowance is the remarried surviving spouse of such member, to such spouse.

(b) Otherwise, to the surviving children of the member, share and share alike, or if there are no such children, to the estate of the person last entitled to said allowance.

The surviving spouse may elect, on a form provided by the retirement system and filed in the office of the retirement system before the first payment of the allowance provided herein, to receive the benefit provided in subdivision (1) of this subsection in lieu of the allowance which otherwise would be payable under the provisions of this subdivision. If a surviving spouse, ho was entitled to make the election herein provided, shall die before or after making such election but before receiving any payment pursuant to such election, then the legally appointed guardian of the unmarried children of the member under the age of eighteen years may make the election herein provided before any benefit has been paid under this subsection (E), for and on behalf of such children if in his judgment it appears to be in their interest and advantage, and the election so made shall be binding and conclusive upon all parties in interest.

If any person other than such surviving spouse shall have and be paid a community property interest in any portion of any benefit provided under this subsection (E), any allowance payable under this subdivision (2) shall be reduced by the actuarial equivalent, at the date of the member's death, of the amount of benefits paid to such other person.

Upon the death of a member after retirement and regardless of the cause of death, a death benefit shall be paid to his estate or designated beneficiary in the manner and subject to the conditions prescribed by the board of supervisors for the payment of a similar death benefit upon the death of other retired members.

(F) Should any miscellaneous member cease to be employed as such a member, through any cause other than death or retirement, all of his contributions, with interest credited thereon, shall be refunded to him subject to the conditions prescribed by the board of supervisors to cover similar terminations of employment and reemployment with and without redeposit of withdrawn accumulated contributions of other members of the retirement system, provided that if such member is entitled to be credited with at least ten years of service or if his accumulated contributions exceed one thousand dollars ($1,000), he shall have the right to elect, without right of revocation and within 90 days after said termination of service, or if the termination was by lay-off, 90 days after the retirement board determines

the termination to be permanent, whether to allow his accumulated contributions to remain in the retirement fund and to receive benefits only as provided in this paragraph. Failure to make such election shall be deemed an irrevocable election to withdraw his accumulated contributions. A person who elects to allow his accumulated contributions to remain in the retirement fund shall be subject to the same age requirements as apply to other members under this section for service retirement but he shall not be subject to a minimum service requirement. Upon the qualification of such member for retirement by reason of age, he shall be entitled to receive a retirement allowance which shall be the actuarial equivalent of his accumulated contributions and an equal amount of the contributions of the city and county, plus 1-2/3 per cent of his average final compensation for each year of service credited to him as rendered prior to his first membership in the retirement system. Upon the death of such member prior to retirement, his contributions with interest credited thereon shall be paid to his estate or designated beneficiary.

(G) The following time and service shall be included in the computation of the service to be credited to a member for the purpose of determining whether such member qualifies for retirement and calculating benefits:

(1) Time during which said member is a member of the retirement system and during and for which said member is entitled to receive compensation because of services as a miscellaneous officer or employee.

(2) Service in the fire and police departments which is not credited as service of a member under this section shall count under this section upon transfer of a member of either of such departments to employment entitling him to membership in the retirement system under this section, provided that the accumulated contribution standing to the credit of such member shall be adjusted by refund to the member or by payment of the member to bring the account at the time of such transfer to the amount which would have been credited to it had the member been a miscellaneous employee throughout the period of his service in either of such departments at the compensation he received in such departments.

(3) Time during which said member is absent from a status included in paragraphs (1) or (2) next preceding which is not deemed absence from service under the provisions of section 8.520 of the charter and for which such member is entitled to receive credit as service for the city and county by virtue of contributions made in accordance with the provisions of such section.

(4) Prior service determined and credited as prescribed by the board of supervisors for persons who are members under section 8.507.

(5) The board of supervisors, by ordinance enacted by a three-fourths vote of its members, may provide for the crediting as service under the

retirement system of service, other than military service, rendered as an employee of the federal government and service rendered as an employee of the State of California or any public entity or public agency in the State of California. Said ordinance shall provide that all contributions required as the result of the crediting of such service shall be made by the member and that no contributions therefor shall be required of the city and county.

(H) All payments provided under this section shall be made from funds derived from the following sources, plus interest earned on said funds:

(1) The rate of contribution of each member under this section shall be based on his nearest age at the effective date of his membership in the retirement system. The normal rate of contribution of each member, to be effective from the effective date of membership under this section, shall be such as, on the average for such member, will provide, assuming service without interruption, under subsection (B) of this section, one-half of that portion of the service retirement allowance to which he would be entitled if retired at age sixty or higher age after rendering ten years of service for retirement under that subsection. No adjustment shall be included in said rates because of time during which members have contributed at different rates. Members' rates of contributions shall be changed only in the manner prescribed by the board of supervisors for changing contribution rates of other members.

(2) There shall be deducted from each payment of compensation made to a member under this section, a sum determined by applying the member's rate of contribution to such compensation. Amounts which would have been deducted in the absence of the limit on such deductions according to service credited, shall be paid to the retirement system following the removal of such limit, in manners and at times approved by the retirement board. The sum so deducted shall be paid forthwith to the retirement system. Said contribution shall be credited to the individual account of the member from whose salary it was deducted, and the total of said contributions, together with interest credited thereon in the same manner as is prescribed by the board of supervisors for crediting interest to contributions of other members of the retirement system, shall be applied to provide part of the retirement allowance granted to, or allowance granted on account of said member, under this section or shall be paid to said member or his estate or beneficiary as provided in subsections (E) and (F) of this section, provided that the portion of the salaries of the teachers as provided in section 8.507, paragraph (a), as a basis for fixing the contributions to be made, and the benefits to be received, by the teachers under the retirement system shall be determined by the method provided in section 8.507, paragraph (a) and shall not be less than eighty per cent of the total salary received by the teachers, unless the board of supervisors shall otherwise

provide by ordinance enacted by three-fourths vote of all members of the board.

(3) Contributions based on time included in paragraphs (1) and (3) or subsection (G), and deducted prior to July 1, 1947, from compensation of persons who become members under this section, and standing with interest thereon, to the credit of such members on the records of the retirement system on said date, shall continue to be credited to the individual accounts of said members and shall be combined with and administered in the same manner as the contributions deducted after said date.

(4) The total contributions, with interest thereon, made by or charged against the city and county and standing to its credit, on July 1, 1948, in the accounts of the retirement system, on account of persons who become members under this section, shall be applied to provide the benefits under this section.

(5) The city and county shall contribute to the retirement system such amounts as may be necessary, when added to the contributions referred to in the preceding paragraphs of this subsection (H), to provide the benefits payable under this section. Such contributions of the city and county to provide the portion of the benefits hereunder which shall be based on service rendered by each member prior to the date upon which his rate of contribution is determined in paragraph (1), subsection (H), shall not be less during any fiscal year than the amount of such benefits paid during said year. Such contributions of the city and county to provide the portion of the benefits hereunder which shall be based on service rendered by respective members on and after the date stated in the next preceding sentence, shall be made in annual installments, and the installment to be paid in any year shall be determined by the application of a percentage to the total salaries paid during said year, to persons who are members under this section, said percentage to be the ratio of the value of the effective date hereof, or at the later date of a periodical actuarial valuation and investigation into the experience under the system, of the benefits thereafter to be paid under this section, from contributions of the city and county, less the amount of such contributions, and plus accumulated interest thereon, then held by said system to provide said benefits on account of service rendered by respective member after the date stated in the sentence next preceding, to the value at said respective dates of salaries thereafter payable to said members. Said values shall be determined by the actuary, who shall take into account the interest which shall be earned on said contributions, the compensation experience of members, and the probabilities of separation by all causes, of members from service before retirement and of death after retirement. Said percentage shall be changed only on the basis of said periodical actuarial valuation and investigation into the experience under

the system. Said actuarial valuation shall be made every even-numbered year and said investigation into the experience under the system shall be made every odd-numbered year.

Notwithstanding the provisions of this subdivision (5), any additional liabilities created by the amendments of this Section 8.509 contained in the proposition therefor submitted to the electorate on November 6, 1973, shall be amortized over a period of 30 years.

(6) To promote the stability of the retirement system through a joint participation in the result of variations in the experience under mortality, investment and other contingencies, the contributions of both members and the city and county held by the system to provide the benefits under this section, shall be a part of the fund in which all other assets of said system are included. Nothing in the section shall affect the obligations of the city and county to pay to the retirement system any amounts which may or shall become due under the provisions of the charter prior to the effective date hereof, and which are represented on July 1, 1947, in the accounts of said system by debits against the city and county.

(I) Upon the completion of the years of service set forth in subsection (B) of this section as requisite to retirement, a member shall be entitled to retire at any time thereafter in accordance with the provisions of said subsection (B), and nothing shall deprive said member of said right.

(J) No person retired under this section, for service or disability and entitled to receive a retirement allowance under the retirement system shall serve in any elective or appointive position in the city and county service, including membership on boards and commissions, nor shall such persons receive any payment for service rendered to the city and county after retirement, provided that service as an election officer or juror shall not be affected by this section.

(K) Any section or part of any section in this charter, insbfar as it should conflict with this section, or with any part thereof, shall be superseded by the contents of this section. In the event that any word, phrase, clause or subsection of this section shall be adjudged unconstitutional, the remainder thereof shall remain in full force and effect.

(L) Notwithstanding the provisions of subsections (B), (C), (F), and (I) of this section, any member convicted of a crime involving moral turpitude committed in connection with his duties as an officer or employee of the City and County of San Francisco, shall, upon his removal from office or employment pursuant to the provisions of this charter, forfeit all rights to any benefits under the retirement system except refund of his accumulated contributions; provided, however, that if such member is qualified for service retirement by reason of service and age under the provisions of subsection (B) of this section, he shall have the right to elect, without right

of revocation and within 90 days after his removal from office or employment, whether to withdraw all of his accumulated contributions or to receive as his sole benefit under the retirement system an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of such removal from office or employment.

(M) The amendments of this section contained in the proposition therefor submitted to the electorate on November 6, 1973, shall be effective on the first day of the month next following their ratification by the State Legislature. Said amendments do not and shall not increase any allowance first in effect prior to the effective date of said amendments, nor shall they give any person retired prior to said effective date, or his successors in interest, any claim against the city and county for any increase in any retirement allowance paid or payable for time prior to said effective date. *(Amended November, 1973.)*

8.521 Credit for Certain Military Service

Notwithstanding any other provisions of this charter, any member who was serving in the armed forces of the United States or the State of California during the time of war or any emergency lawfully declared by the President of the United States, who had standing on an eligible list for appointment to a permanent position and was reached for certification to a permanent position while so serving shall have the right to elect to make contributions as provided in this section and to receive credit in this system as city service for all or any part of the time after he was so reached during which he was so serving; provided, however, that no member shall have such right unless he entered into employment with the city and county as a result of such certification made in accordance with the provisions of section 8.361 of the charter within one year after his discharge from such armed forces.

Any member who elects pursuant to this section to make contributions and receive credit for such time shall contribute to the retirement system an amount determined by applying the rate of contribution first applicable to him on the effective date of his membership in the retirement system to the monthly compensation earnable by him on said date, together with interest on said amount at the rates of interest being used from time to time under the retirement system.

The board of supervisors shall provide by ordinance the time and manner for making said contributions and for the crediting of such service as service credit. *(Added November, 1972.)*

8.536 Increasing Retirement Allowances of Miscellaneous Officers and Employees Retired on or after July 1, 1947, and Prior to July 1, 1974

(a) Every retirement allowance payable to or on account of a member who retired for service under the provisions of subsection (B) of section 8.509 of this charter on or after July 1, 1947, and prior to July 1, 1974, after having attained the age of sixty (60) years is hereby increased for time commencing on July 1, 1974, to the amount it would have been if such allowances had been computed, on the date such retirement allowance was first effective, on the basis of two (2) per cent of such member's average final compensation for each year of credited service.

(b) Every retirement allowance payable to or on account of a member who retired for service under the provisions of subsection (B) of Section 8.509 of this charter on or after July 1, 1947, and prior to July 1, 1974, prior to having attained the age of sixty (60) years is hereby increased for time commencing on July 1, 1974, to the amount it would have been if such allowance had been computed, on the date such retirement allowance was first effective, on the basis of the per cent of such member's average final compensation for each year of credited service as is set forth in the following table opposite his age at retirement, taken to the preceding completed quarter year:

Age at Retirement	Per Cent for Each Year of Credited Service
55	1.5000
55-1/4	1.5250
55-1/2	1.5500
55-3/4	1.5750
56	1.6000
56-1/4	1.6250
56-1/2	1.6500
56-3/4	1.6750
57	1.7000
57-1/4	1.7250
57-1/2	1.7500
57-3/4	1.7750
58	1.8000
58-1/4	1.8250
58-1/2	1.8500
58-3/4	1.8750
59	1.9000

Age at Retirement	Per cent for Each Year of Credited Service
59-1/4	1.9250
59-1/2	1.9500
59-3/4	1.9750

In no event shall a member's retirement allowance, as increased under the provisions of paragraph (a) or (b) of this section, exceed seventy-five per cent of his average final compensation.

(c) Every retirement allowance payable to or on account of a member who retired for disability under the provisions of subsection (C) of section 8.509 of this charter on or after July 1, 1947, and prior to July 1, 1974, is hereby increased for time commencing on July 1, 1974, to the amount it would have been if such allowance had been computed, on the date such retirement allowance was first effective as follows:

(1) On the basis of one and eight-tenths per cent of such member's average final compensation for each year of credited service, if such retirement allowance exceeds forty (40) per cent of his said average final compensation;

(2) If such retirement allowance, as increased does not exceed forty (40) per cent of such member's average final compensation, the increase provided under this section shall be computed on the basis of one and eight-tenths percent of his average final compensation multiplied by the number of years of city-service which would be credited to him were such city-service to continue until attainment by him of the age of sixty years: provided, however, that such retirement allowance shall not exceed forty (40) per cent of his said average final compensation.

With respect to members whose retirement allowances were first effective prior to January 1, 1972, "average final compensation" as used in this section 8.536 shall mean the average monthly compensation earned by the member during any twelve consecutive months of credited service in the retirement system in which his average compensation is the highest.

This section does not give any person retired under the provisions of section 8.509, or his successors in interest, any claim against the city and county for any increase in any retirement allowance paid or payable for time prior to July 1, 1974.

Any increase in any retirement allowance resulting from the recalculation provided for in this section shall be disregarded in connection with any adjustment of retirement allowances pursuant to the provisions of section 8.526 of this charter. *(Amended June, 1974.)*

8.537 Increasing Retirement Allowances of Miscellaneous Officers and Employees Retired Under Section 8.507 Prior to January 1, 1972

Every retirement allowance payable to or on account of a member who retired under the provisions of section 8.507 (formerly section 165 of the charter of 1932) prior to January 1, 1972, is hereby increased for time commencing on the effective date of this section, hereby designated as the first day of the month next following ratification by the State legislature, to the amount it would have been if such allowance had been computed, on the date such member's retirement allowance was first effective, as if the provisions of section 8.509, as they exist on the effective date of this section, had been in effect and applicable to such member and as if "average final compensation" were defined as the average monthly compensation earned by a member during any twelve consecutive months of credited service in the retirement system in which his average compensation is the highest.

This section does not give any person retired under the provisions of said section 8.507, or his successors in interest, any claim against the city and county for any increase in any retirement allowance paid or payable for time prior to the effective date of this section.

Any increase in any retirement allowance resulting from the calculation provided in this section shall be disregarded in connection with any adjustment of retirement allowances pursuant to the provisions of section 8.526 (formerly section 164.1 of the charter of 1932).

Section 8.537 does not authorize any decrease in any allowance from the amount being paid as of June 4, 1974. *(Added June, 1974.)*

8.546 Service Retirement

Any member of the police department who completes at least twenty-five years of service in the aggregate and attains the age of fifty (50) years, said service to be computed under section 8.554, may retire for service at his option. Members shall be retired on the first day of the month next following the attainment by them of the age of sixty-five years. A member retired after meeting the service and age requirements in the two sentences next preceding, shall receive a retirement allowance equal to fifty-five percent of the final compensation of said member, as defined in section 8.545, plus an allowance at the rate of three per cent of said final compensation, for each year of service rendered in excess of twenty-five years; provided, however, that such retirement allowance shall not exceed seventy percent of said member's final compensation. A member retired after attaining the age of sixty-five years, but before completing twenty-five years of service in the

aggregate computed under section 8.554, shall receive a retirement allowance which bears the same ratio to fifty percent of the final compensation of said member, as defined in section 8.545 as the service with which he is entitled to be credited, bears to twenty-five years. If, at the date of retirement for service, or retirement for disability resulting from an injury received in performance of duty, said member has no wife, children or dependent parents, who would qualify for the continuance of the allowance after the death of said member, or with respect to the portion of the allowance which would not be continued regardless of dependents, or upon retirement for disability resulting from other causes, with respect to all of the allowance and regardless of dependents at retirement, a member retired under this section, or section 8.547, may elect before the first payment of the retirement allowance is made, to receive the actuarial equivalent of his allowance or the portion which would not be continued regardless of dependents, as the case may be, partly in a lesser allowance to be received by him throughout his life, and partly in other benefits payable after his death to another person or persons, provided that such election shall be subject to all the conditions prescribed by the board of supervisors to govern similar election by other members of the retirement system, including the character and amount of such other benefits. *(Amended November, 1972.)*

8.547 Retirement for Incapacity

Any member of the police department who becomes incapacitated for the performance of his duty by reason of bodily injury received in, or illness caused by performance of his duty, shall be retired. If he is not qualified for service retirement, he shall receive a retirement allowance in an amount which shall be equal to the same percentage of the final compensation of said member, as defined in section 8.545, as his percentage of disability is determined to be. The percentage of disability shall be as determined by the Workmen's Compensation Appeals Board of the State of California upon referral from the retirement board for that purpose; provided that the retirement board may, by five (5) affirmative votes, adjust the percentage of disability as determined by said appeals board; and provided, further, that such retirement allowance shall be in an amount not less than fifty percent nor more than ninety percent of the final compensation of said member, as defined in section 8.545. Said allowance shall be paid to him until the date upon which said member would have qualified for service retirement had he lived and rendered service without interruption in the rank held by him at retirement, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date, based on the final compensation as defined in section 8.545 he would have received immediately prior to said date had he lived and

rendered service as assumed, but such allowance shall not be less than fifty-five percent of such final compensation. If at the time of retirement because of disability, he is qualified as to age and service for retirement under section 8.546, he shall receive an allowance equal to the retirement allowance which he would receive if retired under section 8.546 but not less than fifty-five percent of said final compensation. Any member of the police department who becomes incapacitated for the performance of his duty, by reason of a cause not included under the provisions of the immediately preceding sentences, and who shall have completed at least ten years of service in the aggregate, computed as provided in section 8.554 shall be retired upon an allowance of one and one-half percent of the final compensation of said member, as defined in section 8.545, for each year of service provided that said allowance shall not be less than thirty-three and one-third percent of said final compensation; provided, however, that if such member has completed at least 25 years of service in the aggregate, computed as provided in section 8.554, but has not yet attained the age of 50 years, he shall receive an allowance equal to the retirement allowance he would have received if he had attained the age of 50 years and retired under section 8.546 as of the date of retirement for such incapacity. The question of retiring a member under this section may be brought before the retirement board on said board's own motion, by recommendation of the police commission, or by said member or his guardian. If his disability shall cease, his retirement allowance shall cease, and he shall be restored to the service in the rank he occupied at the time of his retirement. *(Amended November, 1972).*

8.549 Payment of Surviving Dependents

Upon the death of a member of the police department resulting from any cause, other than injury received in or illness caused by performance of duty, (a) if his death occurred after qualification for service retirement under sections 8.540, 8.543 or 8.546, or after retirement for service or because of disability which resulted from any cause other than an injury received in, or illness caused by the performance of duty, three-fourths of his retirement allowance to which he would have been entitled if he had retired for service at the time of his death or three-fourths of his retirement allowance as it was at his death, as the case may be, shall be continued throughout life or until remarriage, to his surviving wife or (b) if his death occurred after the completion of at least twenty-five years of service in the aggregate but prior to the attainment of the age of fifty years, three-fourths of the retirement allowance to which he would have been entitled under section 8.546 if he had attained the age of 50 years on the date of his death shall be continued throughout life or until remarriage to his surviving wife, or (c) if his death occurred after retirement because of disability which resulted from injury

received in, or illness caused by the performance of duty, his retirement allowance as it was at his death shall be continued throughout life or until remarriage, to his surviving wife, except that, if death occurred prior to qualification for service retirement allowance, the allowance continued shall be adjusted upon the date at which said member would have qualified for service retirement, in the same manner as it would have been adjusted had the member not died or (d) if his death occurred after completion of at least ten years of service in the aggregate, computed as provided in section 8.554, an allowance in an amount equal to the retirement allowance to which the member would have been entitled pursuant to section 8.547 if he had retired on the date of death because of incapacity for performance of duty resulting from a cause other than bodily injury received in or illness caused by performance of duty shall be paid throughout life or until remarriage to his surviving wife. If there be no surviving wife entitled to an allowance hereunder, or if she die or remarry before every child of such deceased member attains the age of eighteen years, then the allowance which the surviving wife would have received had she lived and not remarried shall be paid to his child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of eighteen years. Should said member leave no surviving wife and no children under the age of eighteen years, but leave a child or children, regardless of age, dependent upon him for support because partially or totally disabled and unable to earn a livelihood or a parent or parents dependent upon him for support, the child or children and the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving wife otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving wife unless she was married to the member prior to the date of the injury or the onset of the illness which results in death, if he had not retired, or unless she was married to the member at least one year prior to his death.

As used in this section and section 8.548, "surviving wife" shall mean and include a surviving spouse, and shall also mean and include a spouse who has remarried since the death of the member but whose remarriage has been terminated by death, divorce or annulment within five years after the date of such remarriage and who has not thereafter again remarried.

The surviving wife, in the event of death by the member after qualification for but before service retirement, may elect before the first payment of the allowance, to receive the benefit provided in section 8.552 in lieu of the allowance which otherwise would be continued to her under this section. If there be no surviving wife, the guardian of the eligible child or children may make such election, and if there be no such children, the dependent parent or

parents may make such election. Persons heretofore or hereafter retired under other charter sections as members of the police department at the time of retirement, shall be subject to the provisions of this section. With respect to members under section 8.544, ''qualified for service retirement,'' ''qualification for service retirement'' or ''qualified as to age and service retirement,'' as used in this section and other sections to which persons who are members under section 8.544 are subject, shall mean completion of twenty-five years of service and attainment of age fifty, said service to be computed under section 8.554.

The amendments of this section 8.549 contained in the proposition therefor submitted to the electorate on November 7, 1972, are hereby declared to be retroactive and shall be applicable to members who died after October 1, 1970. *(Amended November, 1972.)*

8.569 Definitions

The following words and phrases as used in this section, unless a different meaning is plainly required by the context, shall have the following meaning:

''Retirement allowance,'' ''death allowance'' or ''allowance,'' shall mean equal monthly payments, beginning to accrue upon the date of retirement, or upon the day following the date of death, as the case may be, and continuing for life unless a different term of payment is definitely provided by the context.

''Compensation,'' as distinguished from benefits under the Workmen's Compensation Insurance and Safety Act of the State of California, shall mean the remuneration payable in cash, by the city and county, without deduction except for absence from duty, for time during which the individual receiving such remuneration is a member of the fire department, but excluding remuneration paid for overtime.

''Compensation earnable'' shall mean the compensation which would have been earned had the member received compensation without interruption throughout the period under consideration and at the rates of remuneration attached at that time to the ranks or positions held by him during such period, it being assumed that during any absence he was in the rank or position held by him at the beginning of the absence, and that prior to becoming a member of the fire department, he was in the rank or position first held by him in such department.

''Benefit'' shall include ''allowance,'' ''retirement allowance,'' ''death allowance'' and ''death benefit.''

''Final compensation'' shall mean the monthly compensation earnable by a member at the time of his retirement, or death before retirement, as the

case may be, at the rate of remuneration attached at that time to the rank or position which said member held, provided that said member has held said rank or position for at least one year immediately prior to said retirement or death; and provided, further, that if said member has not held said rank or position for at least one year immediately prior to said retirement or death, "final compensation," as to such member, shall mean the monthly compensation earnable by such member in the rank or position next lower to the rank or position which he held at the time of retirement or death at the rate of remuneration attached at the time of said retirement or death to said next lower rank or position; provided, however, that in the case of a member's death before retirement as the result of a violent traumatic injury received in the performance of his duty, "final compensation," as to such member shall mean the monthly compensation earnable by such member at the rate of remuneration attached on the date he receives such injury to the rank or position held by such member on that date.

The amendment of the definition of "final compensation" contained in the proposition therefor submitted to the electorate on June 6, 1972, shall be retroactive and shall be applicable to any death allowance first effective on or after July 1, 1971. Said amendment does not and shall not increase any death allowance first in effect prior to July 1, 1971, nor shall said amendment give any person receiving a death allowance, or his successors in interest any claim against the city and county for any increase in any death allowance paid or payable for time prior to July 1, 1971.

For the purpose of the retirement system and of this section, the terms "member of the fire department," "member of the department," or "member" shall mean any officer or employee of the fire department, excluding such officers and employees as are members of the retirement system under section 8.565 of the charter, who was or shall be subject to the charter provisions governing entrance requirements of members of the uniformed force of said department, and said terms further shall mean, from the effective date of their employment in said department, persons employed on July 1, 1949, or employed thereafter, regardless of age, to perform the duties performed under the titles of pilot of fireboats or marine engineer of fireboats, or employed after July 1, 1949, at an age not greater than the maximum age then prescribed for entrance into employment in said uniformed force, to perform the duties now performed by members of the salvage corps in the fire department, or duties now performed under the title of hydrant-gateman. Any fire service performed by such member of the fire department outside the limits of the city and county and under orders of a superior officer of any such member, shall be considered as city and county service, and any disability or death incurred therein shall be covered under the provisions of the retirement system.

"Retirement system" or "system" shall mean San Francisco City and County Employees' Retirement System as created in section 8.500 of the charter.

"Retirement board" shall mean "retirement board" as created in section 3.670 of the charter.

"Charter" shall mean the charter of the City and County of San Francisco.

Words used in the masculine gender shall include the feminine and neuter genders, and singular numbers shall include the plural and the plural the singular.

"Interest" shall mean interest at the rate adopted by the retirement board. *(Amended November, 1973.)*

8.570 Service Retirement

Any member of the fire department who completes at least twenty-five years of service in the aggregate and attains the age of fifty (50) years, said service to be computed under section 8.578, may retire for service at his option. Members shall be retired on the first day of the month next following the attainment by them of the age of sixty-five years. A member retired after meeting the service and age requirements in the two sentences next preceding, shall receive a retirement allowance equal to fifty-five per cent of the final compensation of said member, as defined in section 8.569, plus an allowance at the rate of three percent of said final compensation, for each year of service rendered in excess of twenty-five years; provided, however, that such retirement allowance shall not exceed seventy percent of said member's final compensation. A member retired after attaining the age of sixty-five years, but before completing twenty-five years of service in the aggregate computed under section 8.578, shall receive a retirement allowance which bears the same ratio to fifty percent of the final compensation of said member, as defined in section 8.569, as the service with which he is entitled to be credited, bears to twenty-five years. If, at the date of retirement for service, or retirement for disability resulting from an injury received in performance of duty, said member has no wife, children or dependent parents, who would qualify for the continuance of the allowance after death of said member, or with respect to the portion of the allowance which would not be continued regardless of dependents, or upon retirement for disability resulting from other causes, with respect to all of the allowance and regardless of dependents at retirement, a member retired under this section, or section 8.571, may elect before the first payment of the retirement allowance is made, to receive the actuarial equivalent of his allowance or the portion which would not be continued regardless of dependents, as the case may be, partly in a lesser allowance to be received by him throughout his life, and

partly in other benefits payable after his death to another person or persons, provided that such election shall be subject to all the conditions prescribed by the board of supervisors to govern similar election by other members of the retirement system, including the character and amount of such other benefits. *(Amended November, 1972.)*

8.571 Retirement for Incapacity

Any member of the fire department who becomes incapacitated for the performance of his duty by reason of any bodily injury received in, or illness caused by performance of his duty, shall be retired. If he is not qualified for service retirement, he shall receive a retirement allowance in an amount which shall be equal to the same percentage of the final compensation of said member, as defined in section 8.569, as his percentage of disability is determined to be. The percentage of disability shall be as determined by the Workmen's Compensation Appeals Board of the State of California upon referral from the retirement board for that purpose; provided that the retirement board may, by five (5) affirmative votes, adjust the percentage of disability as determined by said appeals board; and provided, further, that such retirement allowance shall be in an amount not less than fifty percent nor more than ninety percent of the final compensation of said member, as defined in section 8.569. Said allowance shall be paid to him until the date upon which said member would have qualified for service retirement had he lived and rendered service without interruption in the rank held by him at retirement, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date based on the final compensation, as defined in section 8.569, he would have received immediately prior to said date, had he lived and rendered service as assumed, but such allowance shall not be less than fifty-five percent of such final compensation.

If at the time of retirement because of disability, he is qualified as to age and service for retirement under section 8.570, he shall receive an allowance equal to the retirement allowance which he would receive if retired under section 8.570, but not less than fifty-five percent of said final compensation. Any member of the fire department who becomes incapacitated for performance of his duty, by reason of a cause not included under the provisions of the immediately preceding sentences, and who shall have completed at least ten years of service in the aggregate, computed as provided in section 8.578, shall be retired upon an allowance of one and one-half percent of the final compensation of said member as defined in section 8.569 for each year of service, provided that said allowance shall not be less than thirty-three and one-third percent of said final compensation; provided, however, that if such member has completed at least 25 years of service in the aggregate, com-

puted as provided in section 8.578, but has not yet attained the age of 50 years, he shall receive an allowance equal to the retirement allowance he would have received if he had attained the age of 50 years and retired under section 8.570 as of the date of retirement for such incapacity. The question of retiring a member under this section may be brought before the retirement board on said board's own motion, by recommendation of the fire commission, or by said member or his guardian. If his disability shall cease, his retirement allowance shall cease, and he shall be restored to the service in the rank he occupied at the time of his retirement.

The amendments of this section 8.571 contained in the proposition therefor submitted to the electorate on November 7, 1972, are hereby declared to be retroactive and shall be applicable to members who retired after October 1, 1970. *(Amended November, 1972.)*

8.573 Payments to Surviving Dependents

Upon the death of a member of the fire department resulting from any cause, other than an injury received in or illness caused by performance of duty, (a) if his death occurred after qualification for service retirement, under section 8.570, or after retirement for service or because of disability which resulted from any cause other than an injury received in, or illness caused by performance of duty, three-fourths of his retirement allowance to which the member would have been entitled if he had retired for service at the time of death or three-fourths of the retirement allowance as it was at his death, as the case may be, shall be continued throughout life or until remarriage, to his surviving wife, or (b) if his death occurred after the completion of at least twenty-five years of service in the aggregate but prior to the attainment of the age of fifty years, three-fourths of the retirement allowance to which he would have been entitled under section 8.570 if he had attained the age of 50 years on the date of his death shall be continued throughout life or until remarriage to his surviving wife, or (c) if his death occurred after retirement for disability by reason of injury received in or illness caused by performance of duty, his retirement allowance as it was at his death shall be continued throughout life or until remarriage, to his surviving wife, except that, if death occurred prior to qualification for service retirement allowance, the allowance continued shall be adjusted upon the date of which said member would have qualified for service retirement, in the same manner as it would have been adjusted had the member not died, or (d) if his death occurred after completion of at least ten years of service in the aggregate, computed as provided in section 8.578, an allowance in an amount equal to the retirement allowance to which the member would have been entitled pursuant to section 8.571 if he had retired on the date of death because of incapacity for performance of duty resulting

from a cause other than bodily injury received in or illness caused by performance of duty shall be paid throughout life or until remarriage to his surviving wife. If there be no surviving wife entitled to an allowance hereunder, or if she die or remarry before every child of such deceased member attains the age of eighteen years, then the allowance which the surviving wife would have received had she lived and not remarried shall be paid to his child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of eighteen years. Should said member leave no surviving wife and no children under age of eighteen years, but leave a child or children, regardless of age, dependent upon him for support because partially or totally disabled and unable to earn a livelihood or a parent or parents dependent upon him for support, the child or children and the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving wife otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving wife unless she was married to the member prior to the date of the injury or onset of the illness which results in death if he had not retired, or unless she was married to the member at least one year prior to his death if he had retired.

As used in this section and section 8.572, "surviving wife" shall mean and include a surviving spouse, and shall also mean and include a spouse who has remarried since the death of the member but whose remarriage has been terminated by death, divorce or annulment within five years after the date of such remarriage and who has not thereafter again remarried.

The surviving wife, in the event of death of the member after qualification for but before service retirement, may elect before the first payment of the allowance, to receive the benefit provided in section 8.576, in lieu of the allowance which otherwise would be continued to her under this section. If there be no surviving wife, the guardian of the eligible child or children may make such election, and if there be no such children, the dependent parent or parents may make such election. Persons heretofore retired under charter section 8.567, as members of the fire department at the time of retirement, shall be subject to the provisions of this section. "Qualified for service retirement," "qualification for service retirement" or "qualified as to age and service for retirement," as used in this section and other sections to which persons who are members under section 8.568 are subject, shall mean completion of twenty-five years of service and attainment of age fifty, said service to be computed under section 8.578.

The amendments of this section 8.573 contained in the proposition therefor submitted to the electorate on November 7, 1972, are hereby declared to be retroactive and shall be applicable to members who died after October 1, 1970. *(Amended November, 1972.)*

9.100-1 Election of Mayor

Notwithstanding any other provisions or limitations of this Charter, the mayor shall be elected at large by the voters of the city and county in the manner prescribed in this section.

At the general municipal election in 1975, and at the general municipal election in every fourth year thereafter, there shall be elected a mayor; provided, however, that should no candidate for the office of mayor receive at the general municipal election a majority of the votes cast for all candidates for said office, the two candidates receiving the highest numbers of votes cast for any of such candidates shall thereby qualify as candidates for the office of mayor at a runoff election to be held on the second Thursday of the next ensuing December. The mayor shall be elected for a term of four years, from the commencement of his respective term as herein specified. Each term of office of a duly elected mayor shall commence at twelve o'clock noon on the 8th day of January following the date of his election.

No person elected as mayor shall be eligible, for a period of one year after his last day of said service as mayor, for appointment to any full time position carrying compensation in the city and county service. *(Added November, 1973.)*

9.103 Municipal Elections

On Tuesday after the first Monday in November in 1931 and every second year thereafter, there shall be held in the city and county an election to be known as the general municipal election, at which the electors of the city and county shall choose such officers or qualify such candidates as are required by this charter to be elected or qualified at that time.

In the event that a runoff election for the office of mayor is required to be held pursuant to the provisions of section 9.100-1 of this charter, on the second Thursday in December of 1975 and every fourth year thereafter there shall be held an election to be known as the municipal runoff election, at which the electors of the city and county shall elect a mayor. The office of mayor shall be the only office to be voted on at said municipal runoff election, and no other office or measure shall be voted on at said election.

Special municipal elections shall be called by the registrar when required by this charter on the filing of appropriate initiative, referendum or recall petitions, as provided by this charter, and may be called by the supervisors for bond issues, declarations of policy, or for the voting on candidates for city and county offices not subject to election at general municipal elections or municipal runoff elections.

All provisions of the general laws of this state, including penal laws,

respecting the registration of voters, initiative, referendum and recall petitions, elections, canvass of returns and all matters pertinent to any and all of these, shall be applicable to the city and county except as otherwise provided by this charter or by ordinance adopted by the board of supervisors as authorized by this charter relative to any rights, powers or duties of the city and county or its officers. When not prohibited by general law, the supervisors by ordinance may provide that the publication of precincts and polling plwces shall be by posting only. *(Amended November, 1973.)*

9.104 Nomination of Elective Officers

The name of a candidate for an elective office shall be printed upon the ballot when a declaration of candidacy, a nomination paper signed by not less than forty nominators and certificates of not less than twenty nor more than thirty sponsors shall have been filed on his behalf, and when the nomination shall have been made in the following manner: The candidate, not more than seventy-five days before the municipal election in November, shall file with the registrar a declaration of his candidacy, in the form prescribed by the registrar for all candidates, including statements of his qualifications in not to exceed one hundred words, subscribed by him before the registrar. The registrar shall forthwith certify to the said subscription and its date and retain and file the declaration. The candidate shall pay to the registrar at the time of filing his declaration of candidacy a sum equal to two percent (2%) of the current annual salary for the office for which he is a candidate. After said declaration shall have been signed, certified and filed, and not later than sixty days before said election in November a nomination paper, in the form prescribed by the registrar for all candidates, signed by not less than forty nominators for the said candidate, who are electors of the city and county qualified to vote at the said municipal election, shall be filed with the registrar. In addition thereto and not later than sixty days before the election each candidate shall file with the registrar, on forms furnished by him, not less than twenty nor more than thirty sponsors, who are electors qualified to vote at the said municipal election and who shall sign and certify under the penalty of perjury to the qualifications of said candidate.

In the event the registrar shall refuse to file such declaration of candidacy, nomination paper therefor or certificate of a sponsor thereof, he shall forthwith designate in writing on the declaration, nomination paper or certificate the defect thereof, or other reason for refusing to file the same, and shall return the same to the party tendering it. No defect in any declaration, nomination paper or certificate presented to the registrar shall prevent the filing of another declaration, nomination paper or certificate within the period allowed for presenting the declaration, nomination paper or certificate. The name of every candidate who has been duly and regularly

nominated shall be placed on the ballot under the title of the office for which he is a candidate, provided that a candidate whose nomination has been completed, may, not less than fifty days before a municipal election, withdraw as a candidate by filing with the registrar his withdrawal, naming the office; such withdrawal must be signed and sworn to by the person withdrawing.

The name of every candidate who has been nominated for office as hereinbefore provided shall be placed on the ballot in alphabetical order in accordance with the initial letter of his surname, under the heading of the office for which said candidate has been nominated in the following manner: The name of the candidate highest on the alphabetical list of candidates for any particular office shall be printed first on the ballot under the proper heading for said office in the lowest numbered assembly district in the city and county. Thereafter, in each succeeding assembly district, the name of the candidate appearing first for said office in the last preceding district shall be placed last and the order of the names of the other candidates for said office shall remain unchanged.

In the event that the number of candidates in any group shall exceed the number of assembly districts in the city and county, then the total number of candidates in such group shall be divided by the number of assembly districts and the quotient of said division, if an integral number, or, if it be a fractional number, then the next highest integral number, shall be the number of candidates to be taken from the beginning of the list of said candidates and placed at the end of said list of candidates in each succeeding assembly district.

Immediately under the name of each candidate and not separated therefrom by any line may appear, at the option of the candidate, one of the following designations:

(a) Words designating the city, county, district or state office which the candidate then holds.

(b) If the candidate be a candidate for the same office which he then holds, and only in that event, the word "incumbent."

(c) The word designating the profession, vocation or occupation of the candidate. The profession, vocation or occupation so designated shall be the same as appears in the affidavit of registration of the candidate.

In all cases words so used shall be printed in eight-point roman boldface capitals and lower-case type.

No incumbent shall have any further preference in the location of his name on said ballot unless the same is permitted by this section.

The registrar shall preserve in his office for a period of four years all candidates' declarations, nomination papers and all sponsors' certificates filed in accordance with this section. *(Amended November, 1972.)*

9.105 Material on Candidates Mailed to Voters

The registrar shall, before each municipal election other than a municipal runoff election, cause to be printed in pamphlet form and mailed to each registered voter with the sample ballot, a copy of all statements of qualifications of candidates received by him, to be followed by the names and addresses and occupations of all sponsors of all officers to be voted for in said city and county.

The registrar shall cause ballots to be printed identical with the ballot to be used in each assembly district at each general municipal or municipal runoff election and shall furnish copies of the same on application to registered voters at his office at least thirty days before the date fixed for either of such elections. He shall also furnish copies of all material required by this charter to be mailed to the voters prior to either of such elections. Commencing at least thirty days before the date fixed for either of such elections, the registrar shall mail to each voter entitled to vote on such election a copy of the ballot to be used in his district, and a copy of all material required by this charter to be mailed to the voters prior to either of such elections, so that all said sample ballots and material shall have been mailed at least ten days before either of said elections. The rotation of names of candidates on ballots shall be as provided by general law. *(Amended November, 1973.)*

9.106 Precinct Boards of Election

The registrar shall, at each municipal, runoff or special election, prepare lists for and appoint for each election precinct a precinct board of election officers to hold and conduct such election at the precinct for which said board is appointed. Such board shall consist of one inspector, one judge and two clerks, who shall perform all the duties required by law at such polling place, except as in this charter provided. When voting machines are used, one inspector and two judges shall be appointed. The general law as to the appointment of election officers shall apply when not otherwise provided herein. The registrar is authorized to withhold the pay of any election officer who neglects, disregards or violates the election laws. *(Amended November, 1973.)*

9.111 Time of Election

If the petition accompanying a proposed initiative measure, declaration of policy, or recall be signed by registered voters equal in number to ten percent of the entire vote cast for mayor at the last preceding general municipal election and contains a request that said measure, policy or recall be submitted forthwith to a vote of the electorate at a special election, then the

registrar shall forthwith call a special election, which shall be held at a date not less than sixty nor more than seventy-five days from the date of calling the same, at which said measure or policy, without alteration, or said recall shall be submitted to a vote of the electorate, unless within sixty days of a general or primary election, in which event it shall be submitted at such general or primary election.

If the petition accompanying a proposed initiative measure or declaration of policy be signed by registered voters equal in number to five percent but less than ten percent of the said entire vote, then such measure or measures, without alteration, shall be submitted by the registrar to a vote of the electorate at the next general state or municipal election that shall occur at any time after thirty days from the date of the certificate of sufficiency attached to the petition accompanying such measure unless the board of supervisors, by ordinance, direct that the measure or policy be voted on at a special election prior thereto. *(Amended November, 1972.)*

9.112 Material on Measures Mailed to Voters

Whenever any measure is required by this charter to be submitted to the voters of the city and county at any election, the registrar shall cause the measure or policy to be printed on sheets measuring approximately six by nine inches, and shall mail the same with a sample ballot to each voter, at least ten days prior to the election. This printed copy may be attached to any other matter required to be printed and mailed.

With or upon the sample ballot mailed to each voter prior to a recall election, there shall be transmitted the reasons for demanding the recall of the officer as set forth in the recall petition, printed in not more than three hundred words, and with or upon the same ballot the printed statement of the officer in not more than three hundred words justifying his course in office.

If the proposition be submitted to the registered voters upon an initiative, referendum or recall petition, the persons filing said petition shall have the right, upon deposit of an amount sufficient to defray the cost of printing as estimated by the registrar, to present to the registrar at any time not later than fifty days prior to said election, written arguments favoring their petition, and the registrar shall not accept arguments favoring said petition without the approval of those filing said petition. If said proposition be submitted by the mayor or by the board of supervisors, or by one-third of the board of supervisors, they shall have a similar right, but without the making of such deposit, to present arguments. Should the mayor or four or more members of the board of supervisors desire to submit to the voters a negative argument concerning any proposition submitted by the mayor, the board of supervisors, or one-third of the board of supervisors, they shall have a similar right, but without the making of such deposit, to present such an argument.

The board of supervisors may also in its discretion, by motion, grant to any proponents of propositions submitted by the board a similar right, which may be exercised, subject to the approval of such arguments by motion of the board and upon the making of such deposit. Any persons, committee or organization opposing the measure, policy, charter amendment, or recall placed before the voters may present upon making a deposit as aforementioned, and in like manner at any time not later than forty-five days prior to said election, written arguments opposing said proposition.

Said arguments shall not contain more than 1800 words, nor exceed four pages in length when printed. They shall be signed by the persons or the presiding or executive officials of the committee or organization presenting them. The registrar shall cause said arguments to be printed in a pamphlet approximately six by nine inches in size in one color of ink and in uniform style. They shall be arranged in numerical or alphabetical order according to the number or letter of the proposition to which they refer, and the affirmative in each case shall precede the negative. The registrar shall charge a uniform fee per page sufficient to cover the cost of printing said pamphlet, returning to depositors any excess of deposits. He shall mail one copy with the sample ballot to each voter.

Immediately after introduction in the board of supervisors, or filing with the clerk thereof, of any measure to be submitted to the voters, or of the filing of a petition of the voters for submission of any proposed amendment of the charter, in accordance with the provisions of article XI, section 3, of the constitution of California, the clerk of the board shall deliver a copy of such proposition to the controller. The controller shall thereupon determine whether, in his opinion, such proposition, if adopted, will increase the cost of government of the city and county or in any way affect its tax rate. The controller shall make a written statement thereon to the board of supervisors, analyzing such proposition as to its cost and effect upon the tax rate. Such statement shall be in form appropriate for mailing to the voters with a sample ballot. Upon vote of submission of any such proposition, which, in the opinion of the controller, will in any way affect the cost of government or the tax rate and as to all propositions to create a bonded debt, the controller shall transmit a copy of such statement in relation thereto to the registrar of voters, who shall mail one copy thereof to each voter with the sample ballot. In the pamphlet of arguments, the position of the statement of the controller shall in each instance be next in order after the negative argument. *(Amended November, 1972.)*

9.115 Substantial Compliance

No informalities in conducting municipal, special, runoff, initiative, referendum or recall elections shall invalidate such elections if they have

been conducted fairly and in substantial compliance with and conformity to the requirements of this charter.
(Amended November, 1973.)

FOR LATER AMENDMENTS, SEE
"CHARTER AMENDMENTS - NOV. 1974 - NOV. 1976"

SUPPLEMENTAL INDEX TO CHARTER

EXPLANATION

This index supplements the main Charter index, written in November, 1971. It contains all of the index references written since that date to reflect changes in the Charter at the time they have occurred.

Many of the references are new. Others are intended as substitutes for lines deleted from the main index. It should be noted that some cross-references are intended to lead the user to topics which are in the main index only and not in the Supplemental Index.

For best results in locating desired Charter provisions, this Supplemental Index should be considered an integral part of the main index.

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(1.102)* § 3. Use of State Law Procedures.

In the provisions of this section and §§ 2 and 101, the charter does not purport to place any limitation upon the issuance of bonds as a means of meeting an obligation imposed by statute. **San Francisco v. Collins** (1932) 216 Cal. 187, 13 Pac. (2d) 912.

(1.103)* § 4. Officers of the City and County.

The chief of police is a chief executive officer within the meaning of this section. **Christal v. Police Commission** (1939) 33 Cal. App. (2d) 564, 92 Pac. (2d) 416.

(9.100)* § 5. Elective Officers in Terms.

The provision in this section requiring automatic forfeiture of the position of any appointive city and county employee who becomes a candidate for election to any public office is unconstitutional in its entirety for overbreadth, which cannot be eliminated by the severance of any language, since the provision relates alike to all public offices, whether they be partisan or nonpartisan in character and whether they be San Francisco offices or national or state offices, and there is shown no compelling need to restrict the fundamental right involved on such a sweeping scale. **Kinnear v. San Francisco** (1964) 61 Cal. (2d) 341, 392 Pac. (2d) 391, 38 Cal. Rptr. 631.

(8.100)* § 7. Qualifications of Officers & Employees

For judicial decisions involving provisions of this section that were repealed by the amendment of 1958, see **Lansing v. Board of Education** (1935) 7 Cal. App. (2d) 211, 45 Pac. (2d) 1021.

(2.300)* § 13. Action by Resolution or Ordinance.

This section and § 16 deal only with an acceleration of the legislative procedure of the board of supervisors and do not affect the exercise by the mayor of emergency powers under § 25 so as to require a previous declaration of emergency by the supervisors and an enabling ordinance. **Mullins v. Henderson** (1946) 75 Cal. App. (2d) 117, 170 Pac. (2d) 118.

The requirement of this section that every legislative act shall be by ordinance was not violated when the board of supervisors, by resolution, authorized the city to enter into a contract with the housing authority whereby the city should agree not to levy or impose taxes or special assessments against a project or the authority and that it would furnish to the project without cost certain municipal services. **Kleiber v. San Francisco** (1941) 18 Cal. (2d) 718, 117 Pac. (2d) 657.

(2.304)* § 16. Effective Date; Final Enactment or Adoption.

This section and § 13 deal only with an acceleration of the legislative procedure of the board of supervisors and do not affect the exercise by the mayor of emergency powers under § 25 so as to require a previous declaration of emergency by the supervisors and enabling ordinance. **Mullins v. Henderson** (1946) 75 Cal. App. (2d) 117, 170 Pac. (2d) 118.

The constitutional provision that no measure creating or abolishing any office or changing the salary, term or duties of any officer shall be construed as an emergency measure (Const. Art. IV, § 1) defines in part what the reserve power of referendum shall be, and any ordinance in conflict therewith is invalid. **Brown v. Boyd** (1939) 33 Cal. App. (2d) 460, 91 Pac. (2d) 926.

A police captain is a public officer within Const. Art. IV § 1, declaring that no measure creating or abolishing any office of changing the salary, term or duties of any officer shall be construed to be an emergency measure. Accordingly, an ordinance passed as an emergency measure is void where it creates additional positions as captains of police, and a further ordinance purporting to appropriate funds to pay the salaries attached to such officers should fall with it. **Brown v. Boyd** (1939) 33 Cal. App. (2d) 416, 91 Pac. (2d) 926.

(3.700) § 18. Powers and Duties of County Officers.

This section is enjoining officers to discharge their duties as imposed by general laws does not incorporate general laws into the charter. **Mullins v. Henderson** (1946) 75 Cal. App. (2d) 117, 170 Pac. (2d) 118.

This section does not incorporate into the charter Pol. Code, § 4001, vesting the power to fix salaries in the board of supervisors. **Mullins v. Henderson** (1948) 75 Cal. App. (2d) 117, 170 Pac. (2d) 118.

(3.500)* § 19. Powers and Duties of Boards and Commissions.

When the approval of two-thirds of the Board of Supervisors is required on any provision, two-thirds of all the members of the Board, whether absent or present at the particular meeting, must approve the measure. **San Francisco v. Western Air Lines, Inc.** (1962) 204 Cal. App. (2d) 105, 33 Cal. Rptr. 216.

A rule (under former § 1, ch. 3, Art. VIII) providing for punishment of police department members for negligence as to personal debts was reasonable. **Cleu v. Board of Police Commissioners** (1906) 3 Cal. App. 174, 84 Pac. 672.

(3.501)* § 20. Department Heads.

Under a union agreement grievance procedure whereby a Municipal Railway employee is permitted to appeal a grievance relating to proposed disciplinary action to the manager of utilities, no public hearing is required under the Brown Act (Government Code Sections 54950 et seq.). The hearing before the manager is not a "meeting" of a "legislative body" within the meaning of the Brown Act, and Section 8.341 of the Charter entitles the employee to a public hearing when the proceedings attendant on his actual dismissal reach the appropriate stage. **Wilson v. San Francisco Municipal Railway** (1973) 29 Cal. App. (3d) 870.

This section gives a department head broad power in the reduction of forces under his jurisdiction, and the budget-making procedure, as exemplified by § § 69, 70, 72, is in accord therewith. **Hanley v. Murphy** (1953) 40 Cal. (2d) 572, 255 Pac. (2d) 1.

Although this section permits a department head to effect a reduction of employees in his department pursuant to his judgment as to the needs of the work, "any other provision of this charter to the contrary notwithstanding," this does not mean that the department head is subject to no limitation under civil service regulations, for under the authority of this same section he must have due regard for civil service procedure on the subject of personnel classification and protected tenure in office for employees. **Hanley v. Murphy** (1953) 40 Cal. (2d) 572, 255 Pac. (2d) 1.

In compliance with the provisions of this section empowering department heads to reduce forces in conformity with the need of the work in departments, the board of fire commissioners could return a captain in the department to the rank of lieutenant. **Carr v. Fire Commission** (1938) 30 Cal. App. (2d) 208, 85 Pac. (2d) 959.

(3.101)* § 22. Non-interference in Administrative Affairs.

This section prohibits direct dealing by the mayor with individual policemen, thus the mayor cannot be personally liable for the negligent acts or omissions of individual policemen. **Martinez v. Cahill** (1963) 215 Cal. App. (2d) 823, 30 Cal. Rptr. 566.

This section, prohibiting interference in administrative affairs did not invalidate a resolution of the board of supervisors passed in the proper exercise of its charter powers, and in compliance with which an action was commenced by the city to abate a stable as a public nuisance, as an unauthorized interference with the charter powers of the director of health to issue or refuse a permit to conduct such stable. **People v. Ryan** (1936) 17 Cal. App. (2d) 1, 61 Pac. (2d) 360.

Failure to invoke and exhaust the administrative remedy of appeal under this section and § 39 to the Board of Permit Appeals constitutes a bar to judicial relief. **Lynn v. Duckel** (1956) 46 Cal. (2d) 845, 299 Pac. (2d) 236.

By ignoring the permit procedure established by this section and § 39 and building a roadway without permit, then suing the Director of Public Works for mandatory injunction for removal of city's obstruction to the roadway, a property owner attempts to nullify the procedure established by law, to the injury of the public, and does not come into court with "clean hands". **Lynn v. Duckel** (1956) 46 Cal. (2d) 845, 299 Pac. (2d) 236.

(3.537)* § 24. Permits and Inspections.

Under §§ 24 and 35.6 and the implementing municipal ordinances, the power with respect to the issuance, refusal and revocation of permits for businesses such as that of a pawnbroker is initially vested in the chief of police. These provisions set an overall standard governing and guiding the chief of police and prescribing that the exercise of his permit power must not be arbitrary but rather directed to the promotion of the public interest, and in the regulation of the business of a pawnbroker, specific standards are not necessary. **Iscoff v. Police Commission** (1963) 222 Cal. App. (2d) 395, 35 Cal. Rptr. 189.

The city has power to impose license taxes under this section either for regulation or for revenue or for both, except in reference to matters of statewide concern where the state has occupied the field, in which case it can regulate only in respect of matters purely local. **San Francisco v. Boss** (1948) 83 Cal. App. (2d) 445, 189 Pac. (2d) 32.

An ordinance enacted pursuant to this section requiring contractors to obtain certificates of registration or license before engaging in business is invalid where it operates in the field occupied by the state contractor's laws, and makes no attempt to regulate in matters purely local, and where the purpose of the ordinance, including the licensing provision, is regulation and not revenue. **San Francisco v. Boss** (1948) 83 Cal. App. (2d) 445, 189 Pac. (2d) 32.

A limitation upon the power of the city to impose license taxes for revenue purposes with respect to businesses not mentioned in the clause of this section which excepts certain specified businesses from such taxation may not be inferred. **West Coast Advertising Co. v. San Francisco** (1939) 14 Cal. (2d) 516, 95 Pac. (2d) 138.

The levy of license taxes for revenue is not prohibited by this section, except by the concluding paragraph relating to sellers or manufacturers of goods, wares and merchandise, operating at fixed places of business. An intention to preclude such levy is not to be drawn from the clause "and for such other matters as the board of supervisors may deem advisable." **West Coast Advertising Co. v. San Francisco** (1939) 14 Cal. (2d) 516, 95 Pac. (2d) 138; **Flynn v. San Francisco** (1941) 18 Cal. (2d) 210, 115 Pac. (2d) 3.

The power under this section to impose a license tax upon any seller operating at a fixed place of business which requires a permit or license in accordance with or under authority of any local health, sanitary or other ordinance under the police power, is not limited, as was the case under the former charter, to places of business which require permits from the board of police commissioners. In re **McKeon** (1935) 9 Cal. App. (2d) 223, 49 Pac. (2d) 618.

An ordinance providing that upon application the board of health shall inspect the business premises to ascertain whether they are sanitary and to issue a certificate, and an ordinance providing for the amount of the fee, are not, when read together as being in pari materia, invalid or violative of this section, and a retail butcher whose place had been inspected and who refused on demand to pay the inspection fee was liable to fine or an alternative jail sentence. In re **McKeon** (1935) 9 Cal. App. (2d) 223, 49 Pac. (2d) 618.

Under former § 1, subd, 15, ch. 2, Art. II, empowering the board of supervisors to impose license taxes but prohibiting a tax upon persons except such as required permits from the board of police commissioners, and under former ch. 3, or § 7, ch. 4, ART. VIII, which listed

the persons required to obtain permits from the board of police commissioners, a license tax upon grocery stores to defray inspection expenses and an ordinance providing for collection of such a tax by the board of health was unauthorized. In re **Hadeler** (1923) 61 Cal. App. 630, 215 Pac. 562.

(3.100)* **§ 25. Functions, Powers and Duties.**

Emergency action by the mayor under this section is always subject to judicial review. **Mullins v. Henderson** (1946) 75 Cal. App. (2d) 117, 170 Pac. (2d) 118.

An emergency proclamation prescribing a temporary deviation from the express rule of the charter, is not an amendment of the charter which must follow the amending procedure prescribed in Const. Art. XI. § 8. **Mullins v. Henderson** (1946) 75 Cal. App. (2d) 117, 170 Pac. (2d) 118.

The salary standardization section (§ 151) may be superseded by the exercise by the mayor of his powers under this section in an emergency. **Mullins v. Henderson** (1946) 75 Cal. App. (2d) 117, 170 Pac. (2d) 118.

The word "emergency," as used in this section, has reference to a method adopted as an expedient for meeting a situation which ordinarily calls for immediate action. **Mullins v. Henderson** (1946) 75 Cal. App. (2d) 117, 170 Pac. (2d) 118.

The emergency justifying the exercise by the mayor of emergency powers is not restricted to conditions following a public disaster brought about by an earthquake, a fire, flood, bombing or similar calamity. **Mullins v. Henderson** (1946) 75 Cal. App. (2d) 117, 170 Pac. (2d) 118.

The word "employ" as used in this section relating to the emergency power of the mayor means to hire, and therefore to fix the compensation of those hired. Although the power to fix compensation of municipal employees is vested in the board of supervisors, this power may be suspended during an emergency. **Mullins v. Henderson** (1946) 75 Cal. App. (2d) 117, 170 Pac. (2d) 118.

The question as to whether existing conditions shown by evidence justifies action taken by the mayor pursuant to emergency powers granted him by this section is one of fact, and the trial court's finding on question is conclusive on appeal if the evidence on the issue is conflicting or it is such that fair and impartial minds may draw different conclusions therefrom. **Mullins v. Henderson** (1946) 75 Cal. App. (2d) 117, 170 Pac. (2d) 118.

The passage of an ordinance or resolution in accordance with § 13, § 16 and § 179, is not requisite to the exercise by the mayor of the emergency powers vested in him by this section. Sections 13 and 16 deal only with an acceleration of legislative procedure and of the effectiveness of ordinances in cases considered as emergency legislation. And § 179 merely provides for expedious passage of such ordinances as may be necessary to enable the mayor to carry out his emergency powers. **Mullins v. Henderson** (1946) 75 Cal. App. (2d) 117, 170 Pac. (2d) 118.

Emergency proclamations of the mayor acting under this section, fixing the compensation of employees of a newly acquired street railway were not repealed by standardization and annual salary ordinances subsequently adopted, where they did not deal with the actual emergency, but were based on normal pay and were enacted as part of the ordinary financial machinery of the city, to become effective only after the emergency had passed. **Mullins v. Henderson** (1946) 75 Cal. App. (2d) 117, 170 Pac. (2d) 118.

A finding of an emergency within this section was justified where it appeared that under an existing salary standardization ordinance employees of the newly acquired Market Street Railway would receive beginners' pay, 90% of them intended to seek other employment unless they received pay on a parity with that of the municipal railway, that this would compel a shutdown of the railway for at least a year, that in view of the war conditions, labor shortage,

and the multifarious industries in the area involved in the war effort, the shutdown would dangerously cripple the war effort, and an attempt to follow normal procedure prescribed in § 151 would delay the granting of parity pay for a year. **Mullins v. Henderson** (1946) 75 Cal. App. (2d) 117, 170 Pac. (2d) 118.

(7.700)* § 27. Taxpayers' Suits.

Under this section, a taxpayer's mandamus proceeding to correct deficiencies and errors in property assessments made by the assessor is in the nature of a class action to which equitable principles apply; and where judgment was entered in favor of the taxpayer, an award of attorneys' fees in favor of the petitioners directly payable to the law firms representing petitioners, where such fees were on a contingent percentage basis, was a proper exercise of the court's broad equitable powers. **Knoff v. City and County of San Francisco** (1969) 1 Cal. App. (3d) 184, 81 Cal. Rptr. 683.

(3.402)* § 30. District Attorney.

The warrant and bond office, under this section, is separate and distinct from the district attorney's office. **Galli v. Brown** (1952) 110 Cal. App. (2d) 764, 243 Pac. (2d) 920.

In appointing assistants and clerks under this section, the district attorney acts as a county officer. **Galli v. Brown** (1952) 110 Cal. App. (2d) 764, 243 Pac. (2d) 920.

By deciding to appoint only attorneys for certain jobs as assistants or clerks under this section, the district attorney was not attempting to change the position from that of clerk in the warrant and bond office to assistant attorney in his own office. **Galli v. Brown** (1952) 110 Cal. App. (2d) 764, 243 Pac. (2d) 920.

The provision of § 34 requiring assistant attorneys in the district attorney's office to have two-years' experience has no application to the deputy in charge of the warrant and bond office under his section nor to his assistants and clerks. **Galli v. Brown** (1952) 110 Cal. App. (2d) 764, 243 Pac. (2d) 920.

So far as any charter requirement is concerned, "assistants and clerks" under this section do not have to be attorneys or to meet the two-years' experience requirement of § 34 for assistant attorneys in the district attorney's office. **Galli v. Brown** (1952) 110 Cal. App. (2d) 764, 243 Pac. (2d) 920.

Attorneys appointed by the district attorney and designated on the proper civil service form as "K 52 Junior Attorney, Criminal (Bond and Warrant Clerk)" were appointed as warrant and bond clerks under this section, rather than as assistant attorneys under § 34; hence the fact that the attorneys did not meet the two-year qualification requirement under § 34 for assistant attorneys did not render their appointment unlawful. **Galli v. Brown** (1952) 110 Cal. App. (2d) 764, 243 Pac. (2d) 920.

Appointments as assistants or clerks under this section, being valid when made, were not adversely affected by the fact that appointees performed some duties that they were not qualified to perform, namely, some legal duties and occasional appearances in traffic court as representatives of the district attorney. **Galli v. Brown** (1952) 110 Cal. App. (2d) 764, 243 Pac. (2d) 920.

(3.406)* § 34. Assistants and Employees in Elective Offices.

The provisions of this section requiring assistant attorneys in the district attorney's office to have two-years' experience has no application to the deputy in charge of the warrant and bond office under § 30 nor to his assistants and clerks. **Galli v. Brown** (1952) 110 Cal. App. (2d) 764, 243 Pac. (2d) 920.

So far as any charter requirement is concerned, "assistants and clerks" under § 30 do not have to be attorneys or to meet the two-years' experience requirement of this section for assistant attorneys in the district attorney's office. **Galli v. Brown** (1952) 110 Cal. App. (2d) 764, 243 Pac. (2d) 920.

Attorneys appointed by the district attorney and designated on the proper civil service form as "K 52 Junior Attorney, Criminal (Bond and Warrant Clerk)" were appointed as warrant and bond clerks under § 30, rather than as assistant attorneys under this section; hence the fact that the attorneys did not meet the two-year qualification requirement under this section for assistant attorneys did not render their appointment unlawful. **Galli v. Brown** (1952) 110 Cal. App. (2d) 764, 243 Pac. (2d) 920.

(3.530)* § 35. Police Department.

Although the police commission and the chief of police are components of the police department, they are not in themselves identical. **Iscoff v. Police Commission** (1963) 222 Cal. App. (2d) 395, 35 Cal. Rptr. 189.

(3.538)* § 35. Traffic Regulation.

The fact that the board of supervisors deemed it advisable to submit amendments to this section and § 36 jointly as a single proposition on the ballot in 1943, did not convert them into a single amendment, and give rise to patent ambiguity by virtue of the different language with reference to the effective dates of the amendments. **Callahan v. San Francisco** (1945) 68 Cal. App. (2d) 286, 156 Pac. (2d) 479.

This section, conferring upon the police commission the authority of "management" of the police department does not authorize the commission to rehear discharge proceedings or reinstate discharged officers. **Hoertkorn v. Sullivan** (1944) 67 Cal. App. (2d) 151, 153 Pac. (2d) 367.

(8.405)* § 35.5.1 Departments Under Mayor—Police Department.

Longevity pay rates of Los Angeles which were not automatic but were contingent upon certification that one's standard of service was satisfactory and were declared to be a privilege earned by merit and not a right were not a "basic amount of wages" as the term is used in the governing definition of "rates of compensation" expressed in this section. **Hegarty v. Sohr** (1961) 190 Cal. App. (2d) 509, 12 Cal. Rptr. 210.

(3.537)* § 35.6 Special Powers of the Chief of Police.

The Chief of Police under this section and under Section 613 of the Police Code cannot lawfully grant or deny a permit to purchase a concealable firearm. The latter ordinance is invalid, insofar as it purports to regulate the licensing or registration of firearms, since the legislature, by the enactment of Section 9619 of the Government Code, expressed legislative intent to occupy the entire field of registration and licensing of firearms. **Sippel v. Nelder** (1972) 24 Cal. App. (3d) 173, 101 Cal. Rptr. 89.

Under §§ 24 and 35.6 and the implementing municipal ordinances, the power with respect to the issuance, refusal and revocation of permits for businesses such as that of a pawnbroker is initially vested in the chief of police. These provisions set an overall standard governing and guiding the chief of police and prescribing that the exercise of his permit power must not be arbitrary but rather directed to the promotion of the public interest, and in the regulation of the business of a pawnbroker, specific standards are not necessary. **Iscoff v. Police Commission** (1963) 222 Cal. App. (2d)395, 35 Cal. Rptr. 189.

Under former § 35, providing for revocation of permits for operation of businesses in an improper manner, the chief of police had a clear right to revoke the permit of a pawnbroker for refusal to surrender stolen property. **Willer v. Quinn** (1935) 4 Cal. App. (2d) 663, 41 Pac. (2d) 572.

(no sec.)* § 35.10 Chief of Police Narcotic Fund.

A patrol special police officer appointed pursuant to this section is an employee of San Francisco within § 172. **San Francisco v. Industrial Acc. Comm.** (Odom) (1947) 12. C. Comp. Cas. 207.

(3.540)* § 36. Commission.

The fact that the board of supervisors deemed it advisable to submit amendments to § 35 and this section jointly as a single proposition on the ballot in 1943, did not convert them into a single amendment and give rise to a patent ambiguity by virtue of the different language with reference to the effective dates of the amendments. **Callahan v. San Francisco** (1945) 68 Cal. App. (2d) 286, 156 Pac. (2d) 479.

Under the 1943 amendment to this section providing that it should become effective when the joint legislative resolution was filed, and the increased salaries should be payable only when the proper appropriation had been made, the pay raise did not commence until the board of supervisors made the necessary appropriation. **Callahan v. San Francisco** (1945) 68 Cal. App. (2d) 286, 156 Pac. (2d) 479.

(8.405)* § 36.2 Departments Under Mayor—Fire Department.

Longevity pay rates of Los Angeles which were not automatic but were contingent upon certification that one's standard of service was satisfactory and were declared to be a privilege earned by merit and not a right were not a "basic amount of wages" as the term is used in the governing definition of "rates of compensation" expressed in this section. **Hegarty v. Sohr** (1961) 190 Cal. App. (2d) 509, 12 Cal. Rptr. 210.

(3.651)* § 39. Board of Permit Appeals Functions, Powers and Duties.

In the exercise of its appellate jurisdiction under this section, the Board of Permit Appeals is invested with complete power to hear and determine the entire controversy before it, is free to draw its own conclusions from the conflicting evidence before it and, in the exercise of its independent judgment in the matter, to affirm, modify, or overrule the action of the subordinate agency or official at the primary level. **City and County of San Francisco v. Padilla** (1972) 23 Cal. App. (3d) 388, 100 Cal. Rptr. 223.

This section contemplates de novo review by the Board of Permit Appeals. **City and County of San Francisco v. Padilla** (1972) 23 Cal. App. (3d) 388, 100 Cal. Rptr. 223.

When the Board of Permit Appeals acts within the purview of this section, a presumption arises that the existence of the necessary facts supporting its action has been ascertained and found. **City and County of San Francisco v. Padilla** (1972) 23 Cal. App. (3d) 388, 100 Cal. Rptr. 223.

The jurisdiction of the Board of Permit Appeals, insofar as zoning matters are concerned, is not governed by this section but is controlled exclusively by Section 117.3 of the Charter and Sections 302 and 303 of the Planning Code. **City and County of San Francisco v. Padilla** (1972) 23 Cal. App. (3d) 388, 100 Cal. Rptr. 223.

In respect to hearing appeals from the zoning administrator's decisions relating to granting or denying a zoning variance, Section 117.3 is more restrictive than the discretionary power conferred on the Board of Permit Appeals by this section. **City and County of San Francisco v. Padilla** (1972) 23 Cal. App. (3d) 388, 100 Cal. Rptr. 223.

In order to grant a zoning variance, the Board of Permit Appeals is required to have jurisdiction of the subject matter entitling it to grant or deny a variance. Such jurisdiction is obtained through Section 117.3 and not through this section. **City and County of San Francisco v. Padilla** (1972) 23 Cal. App. (3d) 388, 100 Cal. Rptr. 223.

In passing on license or permit matters, the Board of Permit Appeals is an administrative tribunal invested by the Charter with broad quasi-judicial powers to hear and determine an entire controversy, to draw its own conclusions from conflicting evidence, and to exercise its own independent judgment to affirm or overrule the agency or official exercising permit power at the primary level. **Luxor Cab Co. v. Cahill** (1971) 21 Cal. App. (3d) 551, 98 Cal. Rptr. 576.

In the exercise of its broad discretion, the Board of Permit Appeals is not limited to a determination of whether the primary administrative body complied with the ordinances regulating permit procedure. **Luxor Cab Co. v. Cahill** (1971) 21 Cal. App. (3d) 551, 98 Cal. Rptr. 576.

The Board of Permit Appeals is not required to make specific findings when exercising its appellate powers pursuant to this section. **Luxor Cab Co. v. Cahill** (1971) 21 Cal. App. (3d) 551, 98 Cal. Rptr. 576.

Neither the Charter, nor the Municipal Code provides for findings of fact or law by the Central Permit Bureau. **Russian Hill Improvement Association v. Board of Permit Appeals** (1967) 66 Cal. (2d) 34, 423 Pac. (2d) 824, 56 Cal. Rptr. 672.

Even after a permit has been lawfully issued by the Central Permit Bureau, the Board of Permit Appeals retains discretionary power to order that the permit be denied, because of a pending change in the law. **Russian Hill Improvement Association v. Board of Permit Appeals** (1967) 66 Cal. (2d) 34, 423 Pac. (2d) 824, 56 Cal. Rptr. 672.

This section and related provisions of the Municipal Code do not use the words "issue" and "grant" interchangeably; "issuance" describes the initial departmental action which is reviewed by the Board of Permit Appeals, and "granting" refers to the final disposition of the matter pursuant to the Board's orders. **Russian Hill Improvement Association v. Board of Permit Appeals** (1967) 66 Cal. (2d) 34, 423 Pac. (2d) 824, 56 Cal. Rptr. 672.

This section has no bearing on the matter of the board's role and power in granting or denying zoning variances. **Cow Hollow Improvement Club v. Board of Permit Appeals** (1966) 245 Cal. App. (2d) 160, 53 Cal. Rptr. 610.

It is well settled that the San Francisco Board of Permit Appeals is an administrative tribunal invested by the city's charter and implementing municipal ordinances with the power to hear and determine the entire controversy before it as to whether or not a permit should be issued, to draw its own conclusions from the conflicting evidence before it, and in the exercise of its own independent judgment to affirm or overrule the action of the official exercising permit power at the primary level. **Iscoff v. Police Commission** (1963) 222 Cal. App. (2d) 395, 35 Cal. Rptr. 189.

In reviewing a pawnbroker's application to transfer his permit to a new location, the board of permit appeals is entitled to consider the effect of the proposed business on the surrounding property and its inhabitants. **Iscoff v. Police Commission** (1963) 222 Cal. App. (2d) 395, 35 Cal. Rptr. 189.

Where the Board of Permit Appeals, acting under this section, held full hearings and received expert testimony, a presumption arose that the existence of facts necessary to support its conclusions had been ascertained and found. The Board did not act beyond its jurisdiction or abuse its discretion in ruling upon a decision of the Central Permit Bureau. **Board of Permit Appeals v. Central Permit Bureau** (1960) 186 Cal. App. (2d) 633, 9 Cal. Rptr. 83.

The Board of Permit Appeals is empowered to exercise full discretion in passing upon matters submitted to it; it is free to draw its own conclusions from the conflicting evidence before it and affirm or overrule the issuance of permits. **San Francisco v. Superior Court** (1959) 53 Cal. (2d) 236, 347 Pac. (2d) 294, 1 Cal. Rptr. 158.

Action of the Board of Permit Appeals involving issuance of a permit for an apartment building was not unconstitutional because unguided by adequate standards; the Charter and ordinances of the city fully prescribe the conditions which must be met by those who would construct apartment dwellings and specify the procedures to be followed by those who would secure permits. These conditions and procedures are the standards which must govern the appropriate administrative agencies. **San Francisco v. Superior Court** (1959) 53 Cal. (2d) 236, 347 Pac. (2d) 294, 1 Cal. Rptr. 158.

Where the Board of Permit Appeals, in considering an application for an apartment building, held a full hearing, viewed the site, and made its independent order, such order raised the presumption that the existence of the necessary facts, based on the standards as prescribed by the Charter and applicable ordinances, interpreted and administered to promote public health, safety, comfort, convenience, and general welfare, had been ascertained and found. Its action could not be successfully attacked on the ground that such standards were lacking. **San Francisco v. Superior Court** (1959) 53 Cal. (2d) 236, 347 Pac. (2d) 294, 1 Cal. Rptr. 158.

The jurisdiction of the board of permit appeals is very broad. It may hear appeals on the record, it may try the cause de novo or it may make its own investigation and its own independent order based thereon. **Greif v. Dullea** (1944) 66 Cal. App. (2d) 986, 153 Pac. (2d) 581.

The board of permit appeals may take notice of permit and license ordinances as part of its function under this section to review the acts of departments authorized to issue, grant or deny licenses or permits. **Greif v. Dullea** (1944) 66 Cal. App. (2d) 986, 153 Pac. (2d) 581.

In its appellate jurisdiction the board of permit appeals under this section is an administrative tribunal empowered to exercise full discretion in passing on the matter as submitted for decision. The authority of the board is not confined to a determination of whether there has been a compliance with ordinances regulating permit procedure. **Lindell Co. v. Board of Permit Appeals** (1943) 23 Cal. (2d) 303, 144 Pac. (2d) 4; **Greif v. Dullea** (1944) 66 Cal. App. (2d) 986, 153 Pac. (2d) 581.

The board of permit appeals acting under this section is not required to set forth the reason for its action at the conclusion of a hearing or a rehearing. **Lindell Co. v. Board of Permit Appeals** (1943) 23 Cal. (2d) 303, 144 Pac. (2d) 4.

An ordinance provision for rehearings in matters relating to permits is consistent with the discretion conferred upon the board of permit appeals in passing upon a case on appeal under the authority of this section providing that after "hearing and such further investigation as the board may deem necessary" the board may concur in department action or overrule it. **Lindell Co. v. Board of Permit Appeals** (1943) 23 Cal. (2d) 303, 144 Pac. (2d) 4.

Failure to invoke and exhaust the administrative remedy of appeal under this section and § 24 to the Board of Permit Appeals constitutes a bar to judicial relief. **Lynn v. Duckel** (1956) 46 Cal. (2d) 845, 299 Pac. (2d) 236.

By ignoring the permit procedure established by this section and § 24 and building a roadway without permit, then suing the Director of Public Works for mandatory injunction for removal of city's obstruction to the roadway, a property owner attempts to nullify the procedure established by law, to the injury of the public, and does not come into court with "clean hands." **Lynn v. Duckel** (1956) 46 Cal. (2d) 845, 299 Pac. (2d) 236.

(3.522)* § 42. Director of Planning.

In the adoption of former § 41 (prior to amendment of 1949) the city acted under the constitutional grant of power in Const. Art. VI, Secs. 8, 8a, 8½, and in thus dealing with its own lands it was not restricted by any constitutional provision. **San Francisco v. Linares** (1940) 16 Cal. (2d) 441, 106 Pac. (2d) 639.

Although this section grants to the park commission the exclusive control and management of parks, including the exclusive right to erect and to superintend the erection of buildings, the authority may not be exercised in such manner as to create a public nuisance. **Hassel v. San Francisco** (1938) 11 Cal. (2d) 168, 78 Pac. (2d) 1021.

(7.403)* § 42.2 Sale or Lease of Park Land.

The words "subsurface space" applied to leases do not mean that a proposed garage (under Portsmouth Square) must in its entirety be below the existing surface. And the use of a portion

of the reconstructed surface for necessary entrance, elevator, shaft, and ventilators does not bar the proposed use. **Best v. City and County of San Francisco.** (1960) 184 Cal. App. (2d) 396, 7 Cal. Rptr. 479.

The provision in this section against a garage that will be "in any material respect or degree, detrimental to the original purpose" of the park or square is not violated by a proposed garage under Portsmouth Square that is not entirely below the existing surface, that requires change and reconstruction of the existing surface, and that will present a different "view" to passersby. The provision, further, is complete protection against construction of a multi-story garage wholly above the existing surface, with soil and planting on its roof to preserve its function as a park or square. **Best v. City and County of San Francisco** (1960) 184 Cal. App. (2d) 396, 7 Cal. Rptr. 479.

This section is subject to the rule of fair and reasonable construction with due regard for the object to be accomplished. Its clear purpose is to permit construction and use of underground garages below public parks or squares so long as there is no unreasonable diminution of the parks or squares for public employment. **Best v. City and County of San Francisco** (1960) 184 Cal. App. (2d) 396, 7 Cal. Rptr. 479.

The provisions of this section constitute no restriction on the powers exercised by the city in an agreement and lease relating to an off-street parking facility. **Larsen v. City and County of San Francisco** (1957) 152 Cal. App. (2d) 355, 313 Pac. (2d) 959.

It was within the powers granted under this section to the board of park commissioners to execute a lease of the subsurface space beneath Union Square for the purpose of erecting and constructing thereon a public automobile garage even though this entailed a temporary suspension of surface use during construction and a permanent use of a small portion of the surface for entrances and exits. **San Francisco v. Linares** (1940) 16 Cal. (2d) 441, 106 Pac. (29) 369.

(3.601)* § 46. Art Commission — Powers and Duties.

Where an art project was a cooperative project of the city and a federal agency, the art commission's resolution accepting the art work on dissolution of the federal project was a mere formality rather than a purposeful and unlawful exercise of dominion over privately-owned items mistakenly included in the transaction, and their receipt by the city did not constitute conversion so as to start the running of the statute of limitations at that time; nor did the resolution constitute notice to the owner of conversion where there was no evidence that the owner knew of the resolution. **Buffano v. City and County of San Francisco** (1965) 233 Cal. App. (2d) 61, 43 Cal. Rptr. 223.

(3.622)* § 50. California Palace of the Legion of Honor.

The obvious cultural and administrative requirements of the position of museum director provide legitimate basis for employment classification for the purpose of an ordinance excluding a director from the retirement system upon reappointment after resignation. **Acton, Heil, Brooks v. Henderson** (Three cases) (1957) 150 Cal. App. (2) 1, 309 Pac. (2d) 481.

(3.632)* § 51. M. H. de Young Memorial Museum.

The obvious cultural and administrative requirements of the position of museum director provide legitimate basis for employment classification for the purpose of an ordinance excluding a director from the retirement system upon reappointment after resignation. **Acton, Heil, Brooks v. Henderson** (Three cases) (1957) 150 Cal. App. (2d) 1, 309 Pac. (2d) 481.

(3.640)* § 52. California Academy of Sciences.

The obvious cultural and administrative requirements of the position of museum director provide legitimate basis for employment classification for the purpose of an ordinance excluding a director from the retirement system upon reappointment after resignation. **Acton, Heil, Brooks v. Henderson** (Three cases) (1957) 150 Cal. App. (2d) 1, 309 Pac. (2d) 481.

(4.102)* § 55. Clerk of the Municipal Court.

The power to fix the salaries of attaches of the municipal court is in the legislature by virtue of Const. Art. VI, § 11, and where it has acted, as in Stats. 1947, ch. 1113, its action supersedes a salary ordinance on the subject. **Slavich v. Walsh** (1947) 82 Cal. App. (2d) 288, 186 Pac. (2d) 35.

The delegation to the board of supervisors of the power to fix salaries of some municipal court attaches, as in Municipal Court Act, § 6 (Deering's Gen. Law, Act 5238) from 1929 to 1947, is not irrevocable, and when the power is withdrawn, and the salaries are fixed by statute, as by Stats. 1947, ch. 1113, the statute is supreme. **Slavich v. Walsh** (1947) 82 Cal App. (2d) 228, 186 Pac. (2d) 35.

(3.200)* § 59. Appointment; Qualifications.

Placing the chief administrative officer in a separate class for the purpose of exclusion from the retirement system and reemployment was justified by the fact that the position is unique, different, and distinguished from all other positions in the city and county government. **Acton, Heil, Brooks v. Henderson** (Three cases) (1957) 150 Cal. App. (2d) 1,309 Pac. (2d) 481.

(3.301)* § 64. General Powers and Duties of Controller.

This section was not violated by the city in its agreements in connection with establishing an off-street parking facility. **Larsen v. City and County of San Francisco** (1957) 152 Cal. App. (2d) 355, 313 Pac. (2d) 959.

(6.100)* § 69. Date of Commencement.

The budget-making procedure, of which this section is a part, is in accord with § 20 in giving a department head broad power in effecting the reduction of forces under his jurisdiction. **Hanley v. Murphy** (1953) 40 Cal. (2d) 572, 255 Pac. (2d) 1.

(6.201)* § 70. Form of Budget Estimates.

The budget-making procedure, of which this section is a part, is in accord with § 20 in giving a department head broad power in effecting the reduction of forces under his jurisdiction. **Hanley v. Murphy** (1953) 40 Cal. (2d) 572, 255 Pac. (2d) 1.

(8.406)* § 70.1 Salary Deductions.

The fact that employees may be paid out of a bond fund or other special fund does not exclude them from the operation of this section. **Snell v. Byington** (1934) 2 Cal. App. (2d) 127, 37 Pac. (2d) 734.

Employees of the Hetch Hetchy Project Department, working outside San Francisco on aqueduct and tunnel construction, were subject to the provisions of this section and to the resolution of the board of supervisors reducing the compensation of officers and employees as therein provided. **Snell v. Byington** (1934) 2 Cal. App. (2d) 127, 37 Pac. (2d) 734.

Under the provision of this section that pending adoption of salary standards, the salary and wage rates for positions subject to standardization shall be as recommended by the appointing powers and fixed by the budget and salary ordinance, it is the budget and salary ordinance that controls compensations, rather than the recommendation of the appointing power. **Banks v. Civil Service Commission** (1937) 10 Cal. (2d) 435, 74 Pac. (2d) 731.

The proviso of this section that "any compensation paid as of January 1, 1931 to an incumbent who legally held a position in the city and county service at that time, shall not be reduced so long as such incumbent legally holds such position," read in the light of the entire section, prohibits a reduction in wage rate, but not in the number of hours or days of employment. **Weigle v. San Francisco** (1937) 23 Cal. App. (2d) 274, 72 Pac. (2d) 902.

From §§ 71-73, 151, the power to fix compensation for officers (other than those whose compensation is expressly fixed in the charter) and employees is in the board of supervisors.

The public utilities commission did not have authority to reduce the compensation of the manager of the airport employed prior to the effective date of the charter. **Francis v. Leavy** (1933) 131 Cal. App. 620, 21 Pac. (2d) 979.

(6.205)* **§ 72. Adoption of the Budget and the Appropriation Ordinance.**

This section was not violated by the city in its agreements in connection with establishing an off-street parking facility. **Larsen v. City and County of San Francisco** (1957) 152 Cal. App. (2d) 355, 313 Pac. (2d) 959.

The existence of funds from which payments of claims may be made is an essential prerequisite to the payment of such claims, and in an action for mandate to compel the drawing of a warrant by a public official allegation and proof of available money are essential elements of the petitioner's case. **Tevis v. San Francisco** (1954) 43 Cal. (2d) 190, 272 Pac. (2d) 757.

The right of employees to receive accumulated vacation pay under § 151.5 accruing on the effective date of that section, September 26, 1950, the legal liability of the city for payment should have been treated as an obligation of the fiscal year 1950-1951. **Tevis v. San Francisco** (1954) 43 Cal. (2d) 190, 272 Pac. (2d) 757.

The budget-making procedure, of which this section is a part, is in accord with § 20 in giving a department head broad power in effecting the reduction of forces under his jurisdiction. **Hanley v. Murphy** (1953) 40 Cal. (2d) 572, 255 Pac. (2d) 1.

This section does not authorize an expenditure pursuant to a contract which otherwise is not in compliance with charter requirements. **Kennedy v. Ross** (1946) 28 Cal. (2d) 568, 170 Pac. (2d) 904.

(6.207)* **§ 73. Annual Salary Ordinance.** In determining the question of the personal liability of the controller for the allowance, and the treasurer for the payment, of salary claims illegally approved by an appointing officer, § 150 and this section must be read with § 86. **Galli v. Brown** (1952) 110 Cal. App. (2d) 764, 243 Pac. (2d) 920.

In allowing and paying salary claims, the controller and the treasurer are not required under § 86, when read together with § 150 and this section, to pass upon the legality of the claimant's appointment; they are simply required to see to it that payments are not made unless they comply with procedure set up in the charter; they are not required to go beyond the certifications of the department head and the secretary of the commission as to the legality of the appointment. **Galli v. Brown** (1952) 110 Cal. App. (2d) 764, 243 Pac. (2d) 920.

(6.305)* **§ 77. Transfers.**

Under this section authorizing transfer and use of a surplus for another purpose within a department, and § 128.1, authorizing creation of a fund for reconstruction and replacements due to functional depreciation of utilities, a surplus of the municipal railway reconstruction and replacement fund may be expended for services of civil engineer to make surveys and reports with respect to traffic and transit conditions, and extensions and improvements of the municipal railway. **San Francisco v. Boyd** (1941) 17 Cal. (2d) 606, 110 Pac. (2d) 1036.

(6.311)* **§ 82. Receipt, Custody and Deposit of Funds, Investment of Trust Funds.**

This section was not violated by the city in its agreement in connection with establishing an off-street parking facility. **Larsen v. City and County of San Francisco** (1957) 152 Cal. App. (2d) 355, 313 Pac. (2d) 959

(6.303)* **§ 85. Expenditures and Payment of Claims.**

Cited in **Flora Crane Service, Inc. v. Ross** (1964) 61 Cal. (2d) 199, 390 Pac. (2d) 193, 37 Cal. Rptr. 425.

(6.302)* **§ 86. Limitation on Incurrence of Liability.**

The second paragraph of this section imposes a correlative duty to that set out therein on the controller, by virtue of his office, to determine whether the necessary funds are available to

carry out the proposed expenditure and, if so, to make the appropriate certification. **Flora Crane Service, Inc. v. Ross** (1964) 61 Cal. (2d) 199, 390 Pac. (2d) 193, 37 Cal. Rptr. 425.

Under this section the controller cannot make certification until the precise amount of the city's proposed contract is established, but thereafter he has a clear ministerial duty to determine whether the necessary funds are available, and, if they are, to so certify. **Flora Crane Service, Inc. v. Ross** (1964) 61 Cal. (2d) 199, 390 Pac. (2d) 193, 37 Cal. Rptr. 425.

Under this section the controller has an affirmative duty to make certification after the city's contract is established without a specific request by the contract's obligee. **Flora Crane Service, Inc. v. Ross** (1964) 61 Cal. (2d) 199, 390 Pac. (2d) 193, 37 Cal. Rptr. 425.

To compel certification by the controller of an appropriation for a contract after it has been performed does not defeat or impair the requirement of this section that the certification be before the obligation is incurred or authorized so as to open the door to fraudulent imposition of contractual liabilities on the city, where there is a valid appropriation for the expenditure and unencumbered funds are available to pay it. **Flora Crane Service, Inc. v. Ross** (1964) 61 Cal. (2d) 199, 390 Pac. (2d) 193, 37 Cal. Rptr. 425.

While this section, in imposing liability on public officers for demands illegally approved, allowed or paid, may be paramount to state law as to municipal affairs, it is not paramount as to matters of state concern. **Galli v. Brown** (1952) 110 Cal. App (2d) 764, 243 Pac. (2d) 920.

This section is invalid insofar as it attempts (if it does attempt) to impose absolute liability on the district attorney for erroneous discretionary acts performed in good faith within the scope of his authority without malice, corruption or sinister motives. **Galli v. Brown** (1952) 110 Cal. App. (2d) 764, 243 Pac. (2d) 920.

In determining the question of the personal liability of the controller for the allowance, and the treasurer for the payment, of salary claims illegally approved by an appointing officer, § § 150 and 73 must be read with this section. **Galli v. Brown** (1952) 110 Cal. App. (2d) 764, 243 Pac. (2d) 920.

In allowing and paying salary claims, the controller and the treasurer are not required under this section, when read with §150 and 73, to pass upon the legality of the claimant's appointment; they are simply required to see to it that payments are not made unless they comply with procedure set up in the charter; they are not required to go beyond the certifications of the department head and the secretary of the commission as to the legality of the appointment. **Galli v. Brown** (1952) 110 Cal. App. (2d) 764, 243 Pac. (2d) 920.

Notwithstanding the clause of this section requiring certification as to a sufficient unencumbered balance to meet proposed expenditures, the board of supervisors has broad powers as a law making body to contract on behalf of the city. To promise the payment of money upon performance of the contract out of an unencumbered and unexpended fund set aside for such expenditure is not to contract a liability in violation of the charter. **San Francisco v. Boyd** (1941) 17 Cal. (2d) 606, 110 Pac. (2d) 1036.

(7.703)* § 87. Limitation on Claims and Damages.

In a personal injury action, the city was not estopped from asserting the defense of noncompliance with this section where there was no finding that the oral notice given to a city employee contained the necessary information for the city to investigate the matter and where the record implied a lack of reliance by the injured plaintiff on the city employee's statement that a delayed filing of a claim would be "all right." **Howard v. San Francisco** (1962) 205 Cal. App. (2d) 602, 23 Cal. Rptr. 183.

Since only substantial compliance with this section is required, a claim erroneously stating that an accident occurred at one place when in fact it had occurred at another, and claimant so testified upon trial, was sufficient in view of claimant's good faith in attempting to comply with the law and since the mistake was not unreasonable. **Parodi v. San Francisco** (1958) 160 Cal. App. (2d) 577, 325 Pac. (2d) 224.

The requirement under this section that claims for damages against the city must be

presented to the controller within 60 days after the occurrence does not apply to a claim based upon alleged violation of an agreement under which plaintiff deposited money with the city which he later sued to recover. **Bertone v. San Francisco** (1952) 111 Cal. App. (2d) 579, 245 Pac. (2d) 29.

Where the verification required by this section is proper on its face and is sufficient to support any charge of perjury in case of a false statement in a claim, it is not error to refuse the municipality permission to present evidence showing that the claim has not been properly verified. **Germ v. San Francisco** (1950) 99 Cal. App. (2d) 404, 222 Pac. (2d) 122.

In an action for personal injuries against a municipality, the injured party is not limited to the amount of the claim filed in accordance with this section, since such claims must be filed often before the extent of the injury is known and to limit recovery would induce the filing of excessive claims and tend to defeat the purpose of the claim provision. **Sullivan v. San Francisco** (1950) 95 Cal. App. (2d) 745, 214 Pac. (2d) 82.

A claim for injuries filed with the controller in accordance with this section by a street car passenger cannot be sustained as a timely filing of a county claim under Gov. Code § § 29700-29705, since the operation of a street railway is not a county or government function, and since claims against counties must be filed with the board of supervisors. **Kornahrens v. San Francisco** (1948) 87 Cal. App. (2d) 196, 196 Pac. (2d) 140

The provision of this section precluding recovery unless claims for damages be presented within 60 days after the occurrence applies to a claim for injuries to a passenger on a municipal street car. **Kornahrens v. San Francisco** (1948) 87 Cal. App. (2d) 196, 196 Pac. (2d) 140.

An action for personal injuries was not barred by failure to file claim against the city where the injury which was the basis of claimant's cause of action rendered him mentally incapable of filing the claim within the time required by this section and he filed it as soon as he regained the mental ability to do so. **Schuldstad v. San Francisco** (1946) 74 Cal. App. (2d) 105, 168 Pac. (2d) 68.

The time and place for filing of claims predicated on the liability under state law are matters of statewide concern, and the filing of a claim with the controller, as provided in this section, instead of the secretary or clerk of the legislative board, as provided in the statute is ineffective. **Wilkes v. San Francisco** (1941) 44 Cal. App. (2d) 393, 112 Pac. (2d) 759.

The writing of a letter by the injured party to the city and the city's action upon it does not estop the city from raising this section as a bar to action upon a claim. **Kline v. San Francisco Unified School Dist.** (1940) 40 Cal. App. (2d) 174, 104 Pac. (2d) 661.

The language of this section applies to all claims for damages against the city. **Cathey v. San Francisco** (1940) 37 Cal. App. (2d) 575, 99 Pac. (2d) 1109.

A statement of claim or demand as required by this section is a condition precedent to an action for damages and must be pleaded. **Cathey v. San Francisco** (1940) 37 Cal. App. (2d) 575, 99 Pac. (2d) 1109; **Kline v. San Francisco Unified School Dist.** (1940) 40 Cal. App. (2d) 174, 104 Pac. (2d) 661.

A complaint which fails to plead a demand made in accordance with the requirements of this section does not state a cause of action. **Crim v. San Francisco** (1907) 152 Cal. 279, 92 Pac. 640.

(7.400)* **§ 91. Director of Property.**

It was held in **Lynch v. San Francisco,** Superior Court No. 15020, "That the defendant, . . . as Director of Property and Head of the Real Estate Department of the city and county of San Francisco and his respective successors in office are authorized by the present charter to fix rentals for the renting of said Exposition Auditorium upon such terms and conditions as he sees fit and without any ordinance, resolution or authorization by the defendant, Board of Supervisors, for that purpose." Judgment affirmed in **Lynch v. San Francisco** (1935) 3 Cal.

(2d) 141, 43 Pac. (2d) 538.

(7.401)* § 92. Sale or Exchange of Real Property

A complaint alleging that the City has violated charter provisions delineating the City's duties in appraising and disposing of vacated streets is a justifiable complaint. **Harman v. City and County of San Francisco** (1972) 7 Cal. (3d) 150, 496 Pac. (2d) 1248, 101 Cal. Rptr. 880.

The sale of public streets of San Francisco is governed by its Charter and not by the Streets and Highways Code. **Harman v. City and County of San Francisco** (1972) 7 Cal. (3d) 150, 496 Pac. (2d) 1248, 101 Cal. Rptr. 880.

This section, requiring sale of city property at 90 percent of a "preliminary appraisal" value when the property is not sold at auction, serves the purpose of enjoining the City from the waste of assets that have been obtained or maintained at public expense. **Harman v. City and County of San Francisco** (1972) 7 Cal. (3d) 150, 496 Pac. (2d) 1248, 101 Cal. Rptr. 880.

In order to fulfill the purpose of avoiding sales that result in public waste, the "preliminary appraisal" of property offered for a noncompetitive sale must represent a rational assessment of the property's market value. The draftsmen of this section did not intend to give the director of property a latitude that would destroy the protective armor of this section. **Harman v. City and County of San Francisco** (1972) 7 Cal. (3d) 150, 496 Pac. (2d) 1248, 101 Cal. Rptr. 880.

This section requires the City, when selling vacated streets to abutting owners, to obtain in exchange at least 90 percent of a rational assessment of the market value thereof. **Harman v. City and County of San Francisco** (1972) 7 Cal. (3d) 150, 496 Pac. (2d) 1248, 101 Cal. Rptr. 880.

Because the City cannot show as a matter of law that it received 90 percent of a rationally determined market value of certain vacated streets described in the plaintiff's complaint, plaintiff's allegations that the City failed to fulfill this statutory duty, due to the director of property's practice of appraising every easement of ingress and egress at 50 percent of the street's unencumbered fee value, states a valid cause of action; and hence the trial court erred in sustaining the City's demurrers without leave to amend. **Harman v. City and County of San Francisco** (1972) 7 Cal. (3d) 150, 496 Pac. (2d) 1248, 101 Cal. Rptr. 880.

(7.402)* § 93. Lease of Real Property.

The provisions of this section constitute no restriction on the powers exercised by the city in an agreement and lease relating to an off-street parking facility. **Larsen v. City and County of San Francisco** (1957) 152 Cal. App. (2d) 355, 313 Pac (2d) 959.

In arranging, under this section, for a lease to the highest bidder, the director may insert in the call for bids, for the protection of the city, a clause that the bid is subject to confirmation by the commission. **Laurent v. San Francisco** (1950) 99 Cal. App. (2d) 707, 222 Pac. (2d) 274.

(7.200)* § 95. Public Works and Purchasing Contracts.

The requirement of this section that contracts for construction of public works or improvements be let to the lowest bidder does not apply to a contract for expert services in the preparation of plans, specifications, estimates of costs and contract documents for a project. **Kennedy v. Ross** (1946) 28 Cal. (2d) 569, 170 Pac. (2d) 904.

The provisions of this section requiring that bids be received on contracts do not preclude a contract without bidding for services of a person highly skilled in his science or profession to make surveys, reports, etc., relative to traffic and transit conditions. **San Francisco v. Boyd** (1941) 17 Cal. (2d) 606, 110 Pac. (2d) 1036.

Where the formalities prescribed as prerequisites to the making of a contract for public

improvement are not complied with, the law does not imply an obligation to pay for the work. **Zottman v. San Francisco** (1862) 20 Cal. 96, 81 Am. Dec. 96.

(7.204)* § 98. Contractors' Working Conditions.

The argument that a contract was for work and labor rather than a contract of purchase, is not pertinent in considering the application of this section, under which the question to be determined is whether the contract is one for public work. **Pacific Mfg. Co. v. Leavy** (1936 14 Cal. App (2d) 640, 58 Pac. (2d) 1292.

This section, as it stood in 1935, when it required "every contract for any public work or improvement exclusive of purchases" to contain certain provisions, did not apply to a subcontract to furnish mill work to be installed in a building, since such a subcontract was not one for the doing of any work for San Francisco, but for furnishing finished articles of merchandise. **Pacific Mfg. Co. v. Leavy** (1936) 14 Cal. App. (2d) 640, 58 Pac. (2d) 1292.

(7.300)* § 101. General Laws Applicable.

This section which incorporates the general law on creation of bonded indebtedness of "municipalities, except as otherwise provided," does not prevent the creation of bonded indebtedness for county purposes as an exercise of powers appropriate to a county under § 2. **San Francisco v. Collins** (1932) 216 Cal. 187, 13 Pac. (2d) 912.

(3.510)* § 106. Finance and Records, Purchasing, Real Estate, Public Works, Electricity, Public Health, and County Agricultural Departments; Health Advisory Board; and Coroner's Office.

The powers otherwise clearly vested in the director of public works are not limited by the provision of this section requiring him to make all examinations, plans and estimates required by the supervisors in connection with public improvements. **Kennedy v. Ross** (1946) 28 Cal. (2d) 569, 170 Pac. (2d) 904.

A contract with a civil engineer for the purpose of making surveys and reports relative to traffic and transit conditions is not foreclosed by the clause in this section making it the duty of the director of public works to make all examinations, plans and estimates required by the supervisors in connection with public improvements. **San Francisco v. Boyd** (1941) 17 Cal. (2d) 606, 110 Pac. (2d) 1036.

(7.600)* § 107. Procedure by General Law or Ordinance.

This section applies only to street vacations whose costs have been provided by state legislation and only if another Charter provision does not govern the meeting of such costs. Streets and Highways Code sections 960.4 and 8300 et seq., under which the state has adopted an alternative procedure for street vacations, do not provide for meeting the costs of street vacations and hence cannot be invoked under this Charter section to preclude the application to street vacations of other Charter sections. **Harman v. City and County of San Francisco**(1972) 7 Cal. (3d) 150, 496 Pac. (2d) 1248, 101 Cal. Rptr. 880.

(7.601)* § 108. Repair of Accepted Streets.

Sections 202(c), 203(a), and 205(c) of the Standard Specifications of the Bureau of Engineering, Department of Public Works, should not be read in conjunction with this section; there is no retroactive mandatory duty on the part of the City and County to have curbs throughout the City six inches in height. **Curreri v. City and County of San Francisco** (1968) 262, ACA 657, 69 Cal. Rptr. 20.

Failure to provide curbs on Greenwich Street six inches in height cannot be interpreted as negligence as a matter of law. **Curreri v. City and County of San Francisco** (1968) 262, ACA 657, 69 Cal. Rptr. 20.

(no sec.)* § 117. Zoning — Present Provisions To Apply Pending Ordinance Revision.

The board of supervisors in establishing a procedure as directed by this section cannot deprive a property owner of a right given by the charter. **Marculescu v. City Planning Commission** (1935) 7 Cal. App. (2d) 371, 46 Pac. (2d) 308.

It is presumed that the words "an interested person," as used in this section, were used in the same sense in which they were by prior decisions deemed to have been used in various statutes. **Marculescu v. City Planning Commission** (1935) 7 Cal. App. (2d) 371, 46 Pac. (2d) 308.

An adjacent property owner is interested in the use to which his neighbor may legally put his property and is, therefore, an interested property owner within this section. **Marculescu v. City Planning Commission** (1935) 7 Cal. App. (2d) 371, 46 Pac. (2d) 308.

An ordinance providing that a petition for rezoning shall be signed and verified by "the owner of the property" is invalid as an attempted limitation on this section which authorizes such an application by "an interested property owner." **Marculescu v. City Planning Commission** (1935) 7 Cal. App. (2d) 371, 46 Pac. (2d) 308.

(7.503)* § 117.3. Zoning Variances.

By virtue of this section and Section 302, subdivision (d) of the Planning Code, the initial determination as to whether a variance should be granted or denied is vested in the zoning administrator, who is empowered to grant such a variance only on a finding that the conditions of these enactments have been satisfied. **City and County of San Francisco v. Padilla** (1972) 23 Cal. App. (3d) 388, 100 Cal. Rptr. 223.

The determination of the zoning administrator is not final if an appeal is taken therefrom to the Board of Permit Appeals pursuant to this section as implemented by Section 303 of the Planning Code. **City and County of San Francisco v. Padilla** (1972) 23 Cal. App. (3d) 388, 100 Cal. Rptr. 223.

The jurisdiction of the Board of Permit Appeals, insofar as zoning matters are concerned, is not governed by Section 39 but is controlled exclusively by this section and Sections 302 and 303 of the Planning Code. **City and County of San Francisco v. Padilla** (1972) 23 Cal. App. (3d) 388, 100 Cal. Rptr. 223.

Within the purview of this section and Sections 302 and 303 of the Planning Code, the Board of Permit Appeals, in hearing appeals from the zoning administrator's decisions relating to the granting or denying of a variance, is entitled to exercise its own independent judgment but in doing so can grant a variance only if it finds that the conditions specified in those sections are satisfied. **City and County of San Francisco v. Padilla** (1972) 23 Cal. App. (3d) 388, 100 Cal. Rptr. 223.

In respect to hearing appeals from the zoning administrator's decisions relating to granting or denying a variance, this section is more restrictive than the discretionary power conferred on the Board of Permit Appeals by Section 39 of the Charter. **City and County of San Francisco v. Padilla** (1972) 23 Cal. App. (3d) 388, 100 Cal. Rptr. 223.

In order to grant a zoning variance, the Board of Permit Appeals is required to have jurisdiction of the subject matter entitling it to grant or deny a zoning variance. Such jurisdiction is obtained through this section and not through Section 39. The predicate for such an appeal is an initial determination by the zoning administrator granting or denying the variance following an application therefor, a notice of hearing to abutting owners, and a hearing and specific findings, in compliance with the requirements of this section and the applicable provisions of the Planning Code. **City and County of San Francisco v. Padilla** (1972) 23 Cal. App. (3d) 388, 100 Cal. Rptr. 223.

The initial determination as to whether a zoning variance should be granted or denied is vested in the zoning administrator, who is empowered to grant a variance only on finding that

the conditions of this section and § 302(d) of the City Planning Code are satisfied. **Cow Hollow Improvement Club v. Board of Permit Appeals** (1966) 245 Cal. App. (2d) 160, 53 Cal. Rptr. 610.

A determination by the zoning administrator that the conditions for granting a zoning variance are satisfied is not final where an appeal is taken to the board of permit appeals. **Cow Hollow Improvement Club v. Board of Permit Appeals** (1966) 245 Cal. App. (2d) 160, 53 Cal. Rptr. 610.

Upon the taking of an appeal from the zoning administrator to the board of permit appeals, the board is not bound by the administrator's findings or his decision; hence the board is invested with complete power to hear and determine the entire controversy before it and to draw its own conclusions from conflicting evidence before it and, in the exercise of its independent judgment, to affirm, modify, or overrule the administrator's action. **Cow Hollow Improvement Club v. Board of Permit Appeals** (1966) 245 Cal. App. (2d) 160, 53 Cal. Rptr. 610.

The board's role and power in granting or denying zoning variances are governed exclusively by this section and by Section 303 of the City Planning Code. **Cow Hollow Improvement Club v. Board of Permit Appeals** (1966) 245 Cal. App. (2d) 160, 53 Cal. Rptr. 610.

(3.599)* § 119. Public Utility Policy.

The city is committed by this provision of the charter to a general policy of public ownership of all public utilities. **San Francisco v. United States** (1939) 106 Fed. (2d) 569.

(3.590)* § 120. Public Utilities Commission; Composition

Under a union agreement grievance procedure whereby a Municipal Railway employee is permitted to appeal a grievance relating to proposed disciplinary action to the manager of utilities, no public hearing is required under the Brown Act (Government Code Sections 54950 et seq.). The hearing before the manager is not a "meeting" of a "legislative body" within the meaning of the Brown Act, and Section 8.341 of the Charter entitles the employee to a public hearing when the proceedings attendant on his actual dismissal reach the appropriate stage. **Wilson v. San Francisco Municipal Railway** (1973) 29 Cal. App. (3d) 870, 105 Cal. Rptr. 855.

A reading of this section in conjunction with §§ 121, 122 and 125 shows that the charter intended to designate and establish the airport as a public utility. **San Francisco v. Western Air Lines, Inc.** (1962) 204 Cal. App. (2d) 105, 22 Cal. Rptr. 216.

(3.591)* § 121. Powers and Duties.

Under a union agreement grievance procedure whereby a Municipal Railway employee is permitted to appeal a grievance relating to proposed disciplinary action to the manager of utilities, no public hearing is required under the Brown Act (Government Code Sections 54950 et seq.). The hearing before the manager is not a "meeting" of a "legislative body" within the meaning of the Brown Act, and Section 8.341 of the Charter entitles the employee to a public hearing when the proceedings attendant on his actual dismissal reach the appropriate stage. **Wilson v. San Francisco Municipal Railway** (1973) 29 Cal. App. (3d) 870, 105 Cal. Rptr. 855.

A reading of this section in conjunction with §§ 120, 122 and 125 shows that the charter intended to designate and establish the airport as a public utility. **San Francisco v. Western Air Lines, Inc.** (1962) 204 Cal. App. (2d) 105, 22 Cal. Rptr. 216.

The powers and duties conferred by this section upon the public utilities commission authorize it to discontinue or abandon part of the city's transportation service and to do so without an ordinance to determine that the public interest or necessity demands such

abandonment. **Mann v. San Francisco** (1934) 139 Cal. App. 652, 34 Pac. (2d) 817.

Although an employee's tenure may rest in the discretion of the public utilities commission and he can be discharged at any time under this section, it does not follow that the commission has authority to change his compensation. **Francis v. Leavy** (1933) 131 Cal. App. 620, 21 Pac. (2d) 979.

(3.592)* § 122. Public Utilities Commission — Utility Departments and Bureaus.

A reading of this section in conjunction with §§ 120, 121 and 125 shows that the charter intended to designate and establisn the airport as a public utility. **San Francisco v. Western Air Lines, Inc.** (1962) 204 Cal. App. (2d) 105, 22 Cal. Rptr. 216.

(7.404)* § 123. Referendum on Any Lease or Sale of Public Property.

An off-street parking facility is not a public utility within the meaning of this section. **Larsen v. City and County of San Francisco** (1957) 152 Cal. App. (2d) 355, 313 Pac. (2d) 959.

(3.593)* § 124. Manager of Utilities and Other Executives.

Under a union agreement grievance procedure whereby a Municipal Railway employee is permitted to appeal a grievance relating to proposed disciplinary action to the manager of utilities, no public hearing is required under the Brown Act (Government Code Sections 54950 et seq.). The hearing before the manager is not a "meeting" of a "legislative body" within the meaning of the Brown Act, and Section 8.341 of the Charter entitles the employee to a public hearing when the proceedings attendant on his actual dismissal reach the appropriate stage. **Wilson v. San Francisco Municipal Railway** (1973) 29 Cal. App. (3d) 870, 105 Cal. Rptr. 855.

(no. sec.)* § 125. Public Utilities Commission—Employments.

A reading of this section in conjunction with §§ 120, 121 and 122 shows that the charter intended to designate and establish the airport as a public utility. **San Francisco v. Western Air Lines, Inc.** (1962) 204 Cal. App. (2d) 105, 22 Cal. Rptr. 216.

The failure of the proponents of the amendment of this section in 1924 and 1925 to state a change in the basic provision expressed by section 33 of article XVI of the former charter that "No deputy, clerk, or other employee of the city and county shall be paid for a greater time than that covered by his service," shows a legislative intent to specify a basis of compensation for municipal railway workers not in conflict with the existing mandate of the charter prohibiting payment for service not performed. **Gowenlock v. Turner** (1954) 42 Cal. (2d) 296, 267 Pac. (2d) 310.

This section, by defining the basic work hours as eight in number, to be completed within ten consecutive hours, and by providing for overtime for work in excess of eight hours in any one day or six days in any one week, does nothing more than to specify the basis of compensation for employees. It does not require the city to pay for eight hours of work on a given day regardless of the duties performed. **Gowenlock v. Turner** (1954) 42 Cal. (2d) 296, 267 Pac. (2d) 310.

That this section was not intended to guarantee either a particular amount of wages or a work day of a given number of hours is evidenced by the fact that the 1925 amendment did not include provisions similar to the old charter section (Art III, ch. 2, § 7b) which applied to the privately owned railways and in unmistakable terms specified a minimum wage and maximum hours of work, overtime employment being allowed if paid for at time and one-half. **Gowenlock v. Turner** (1954) 42 Cal. (2d) 296, 267 Pac. (2d) 310.

The established practice prior to 1946 of paying a full eight hours pay for all regular runs under eight hours does not indicate an administrative construction of this section favoring an eight-hour guaranteed work day. **Gowenlock v. Turner** (1954) 42 Cal. (2d) 296, 267 Pac.

(2d) 310.

The only reasonable construction to be placed on the portion of this section which allows to persons who reside outside of San Francisco and who are not engaged in work on an acquired utility outside of the city and county limits a reasonable time to become residents of San Francisco is that those persons who are engaged in such utility work outside the city and county limits are not required to become residents of San Francisco in order to retain their positions. **Denton v. San Francisco** (1953) 119 Cal. App. (2d) 369, 260 Pac. (2d) 83.

When a person ceases to work outside the city and county limits on a public utility acquired by the city, his privilege under this section of living outside the city limits ceases; he then has a reasonable time to comply with the residence requirements prescribed by § 7, which time by analogy may properly be measured by the provision of this section specifying "not exceeding one year." **Denton v. San Francisco** (1953) 119 Cal. App. (2d) 369, 260 Pac. (2d) 83.

Where it was established practice by rule of the San Francisco public utilities commission to give conductors, motormen and bus drivers a priority in the choice of carbarns, runs and vacation periods based upon length of service, and, in determining such length of service, credit to limited tenure appointees under § 145.1 appointed from regular registers "to succeed themselves" in the same positions was given for length of service under the limited tenure appointment, the provision of § 125 recognizing the right to preference in assignment to duty as bus operators based on seniority of service could not be invoked in a mandamus proceeding to compel discontinuance of such practice. **Hart v. Landis** (1951) 103 Cal. App. (2d) 284, 229 Pac. (2d) 380.

The right guaranteed under this section to employees of utilities acquired by San Francisco to be continued in their respective positions in the civil service could not be curtailed by a civil service commission rule requiring such employees to protest their civil service classification within 16 days on the penalty of losing their right to appeal. **Kenney v. Wolff** (1948) 84 Cal. App. (2d) 592, 191 Pac. (2d) 88.

In the provision of this section that if one has been employed for one year in an acquired utility such employee shall be deemed appointed to such position and entitled to "all benefits" of the service under the municipality, "such position," if not the identical position should be interpreted as meaning a similar position in kind and degree — one that in salary, authority, duties, etc., is reasonably comparable to the employee's former position. **Handlon v. Wolff** (1945) 72 Cal. App. (2d) 53, 164 Pac. (2d) 46.

The provision of this section that employees of the municipal airport shall be appointed by and hold office at the pleasure of the manager of utilities, did not apply to an employee of the bureau of engineering of the former department of public works, although his employment was centered mainly on the airport. **Archer v. Civil Service Commission** (1934) 1 Cal. (2d) 357, 34 Pac. (2d) 1023.

(6.407)* § 127. Utility Revenues and Expenditures.

In the provision of this section authorizing expenditure from a fund for a utility "for the payment of operating expenses," the term "operating expenses" is not confined to maintenance, and may include an expense for an appearance by a committee before Congress to urge legislation beneficial to the city. **Powell v. San Francisco** (1944) 62 Cal. App. (2d) 291, 144 Pac. (2d) 617.

The provision (of former § 16, Art. XII) for appropriations for extensions and improvements did not authorize an expenditure for investigation of a street railway system with a view toward its purchase. **Mobley v. Board of Public Works** (1919) 44 Cal. App. 167, 186 Pac. 412.

(6.407)* § 128.1 Utility Revenues and Expenditures

The provision of this section authorizing a fund for reconstruction and replacements due to

physical and "functional depreciation" of utilities, includes replacement of parts due to obsolescence and inadequacy as well as to complete decay. **San Francisco v. Boyd** (1941) 17 Cal. (2d) 606, 110 Pac. (2d) 1036.

Under § 77, authorizing transfer and use of a surplus for another purpose within a department, and this section, authorizing creation of a fund for reconstruction and replacements due to functional depreciation of utilities, a surplus of the municipal railway reconstruction and replacement fund may be expended for services of a civil engineer to make surveys and reports with respect to traffic and transit conditions, and extensions and improvements of the municipal railway. **San Francisco v. Boyd** (1941) 17 Cal. (2d) 606, 110 Pac. (2d) 1036.

(3.598)* § 130. Public Utilities Commission — Rates.

This section is permissive in character. It does not demand that all users of facilities be charged equal rates, nor does it proscribe unequal rates or even give definition to the terms employed. **San Francisco v. Western Air Lines, Inc.** (1962) 204 Cal. App. (2d) 105, 22 Cal. Rptr. 216.

The proviso that "should the commission propose a schedule of rates . . . for (a) utility which shall not produce . . . (revenue sufficient to pay the operating expenses of the utility for at least the succeeding fiscal year), it may do so with the approval of the board of supervisors by a two-thirds vote and it shall thereupon be incumbent to provide by tax levy for the additional amount necessary to meet such deficit," is inapplicable where under a proposed rate there will be no deficit. Hence, an order fixing an increased fare for the city transportation system becomes effective, although disapproved by the board of supervisors by a majority less than a two-thirds majority vote, where the estimated revenue for the next succeeding fiscal year, added to the revenue from the increased fare from the effective date of the new schedule to the end of the current fiscal year, will make a sum in excess of the estimated operating expenses for the next fiscal year. **Hurst v. San Francisco** (1948) 33 Cal. (2d) 298, 201 Pac. (2d) 805.

The words "succeeding fiscal year," in the fourth paragraph of this section, means the next complete fiscal year after the date the schedule is fixed, rather than the rest of the fiscal year in which the rate is established. **Hurst v. San Francisco** (1948) 33 Cal. (2d) 298, 201 Pac. (2d) 805.

(5.101)* § 135. Powers and Duties.

The provisions of this section relating to tenure of principals, and including principals among those who may not be dismissed without cause, is not unconstitutional and not in conflict with the general laws of the state but are in furtherance of the purpose of the general laws. **Anderson v. Board of Education** (1932) 126 Cal. App. 514, 15 Pac. (2d) 774, 16 Pac. (2d) 272.

A teacher who was employed for more than three years as a teacher in the day high schools of the city and as principal of a night high school, then was dismissed without cause, and without charges or hearing, from the position as principal had acquired permanent tenure and was entitled to reinstatement. **Anderson v. Board of Education** (1932) 126 Cal. App. 514, 15 Pac. (2d) 774, 16 Pac. (2d) 272.

A teacher who for more than three years had instructed day classes in one school and night classes in another school in the same district, then was dismissed without cause and without charges or hearing from the position as night school instructor had acquired permanent tenure both under this section of the charter, and was therefore entitled to reinstatement to such position. **Cullen v. Board of Education** (1932) 126 Cal. App. 510, 15 Pac. (2d) 227.

(3.660) § 140. Civil Service Commission

The civil service system rests on the principle of application of the merit system instead of the spoils system in the matter of appointment and tenure of office; to such end, the charter (§§ 140-143) establishes a classified civil service system, with exclusive power in the civil service commission to provide qualified personnel for the various municipal departments and to classify or reclassify positions according to prescribed duties. **Hanley v. Murphy** (1953) 40 Cal. (2d) 572, 255 Pac. (2d) 1.

(3.661)* § 141. Powers and Duties.

The rules of the civil service commission made under the powers given in this section have the force and effect of law so long as they are reasonable and within the fundamental provisions of the Charter. **Murphy v. Walsh** (1958) 158 Cal. App. (2d) 675, 323 Pac. (2d) 206.

The provision that "the allocation or re-allocation of a position shall not adversely affect the civil service rights of an occupant regularly holding such position" includes the right of an incumbent to retain the same schedule of compensation following reclassification of his position that he had before; and where the commission and the board of supervisors reclassified the position of probation officer and created two new positions, the rights of incumbents not qualified for the higher of the two new positions were not impaired where they were retained in their old position and at their old rate of pay. **Forstner v. City and County of San Francisco** (1966) 239 Cal. App. (2d) 516, 48 Cal. Rptr. 805.

There is no conflict between the provision that "the allocation or re-allocation of a position shall not adversely affect the civil service rights of an occupant regularly holding such position" and the provision of Section 151 that "like compensation shall be paid for like service, based upon the classification as provided in section 141"; the latter provision is applied except where compliance therewith would adversely affect the salary and other civil service rights of incumbents regularly employed by the city. **Forstner v. City and County of San Francisco** (1966) 239 Cal. App. (2d) 516, 48 Cal. Rptr. 805.

The civil service system rests on the principle of application of the merit system instead of the spoils system in the matter of appointment and tenure of office; to such end, the charter (§§ 140-143) establishes a classified civil service system, with exclusive power in the civil service commission to provide qualified personnel for the various municipal departments and to classify or reclassify positions according to prescribed duties. **Hanley v. Murphy** (1953) 40 Cal. (2d) 572, 255 Pac. (2d) 1.

The action of the civil service commission in designating as the cutting off date of promotional examination the official beginning date of the examination as noted in the scope circular could not be deemed the equivalent of a rule where it did not meet the requirements of section 141 of the charter that changes in rules be published, that one week's notice be given, and that no change in the rules should affect a case pending before the commission **Conroy v. Wolff** (1950) 34 Cal. (2d) 745, 214 Pac. (2d) 529.

Under the authority conferred upon the commission by this section to adopt rules to govern its action in carrying out this and other civil service provisions of the charter, and in view of the duties imposed upon it by § 148, it has power to formulate, adopt and apply a rule defining permanent and temporary or seasonal positions and providing that appointments to the latter positions expire automatically at the end of five months. **Villain v. Civil Service Commission** (1941) 18 Cal. (2d) 851, 117 Pac. (2d) 880.

The provision of this section against one holding a position "outside the classification to which he has been appointed" necessarily prohibits the payment to an employee of compensation outside the rating determining his civil service status, and one who holds a civil service position as an assistant and is appointed to perform the duties of a superior position until the

vacancy in that position can be filled by a permanent appointment, from the civil service list cannot claim the salary attached to such position **Dunn v. Civil Service Commission** (1935) 3 Cal. App. (2d) 554, 40 Pac. (2d) 310.

Under its rule-making power (granted by former charter § 3, Art. XIII) the civil service commission had no power to adopt a rule whereby positions which were neither temporary in fact nor temporary by the law of their creation could be designated temporary. **McGillicuddy v. Civil Service Commission** (1933) 133 Cal. App. 782, 24 Pac. (2d) 942.

(8.300)* § 142. Civil Service Positions.

Placing a principal attorney in the office of the district attorney into a separate class for the purpose of exclusion from the retirement system and reemployment was justified by the fact that this section distinguishes attorneys and physicians from the great mass of city and county employees by exempting them from the civil service system. **Acton Heil, Brooks v. Henderson (Three cases)** (1957) 150 Cal. App. (2d) 1, 309 Pac. (2d) 481.

The civil service system rests on the principle of application of the merit system instead of the spoils system in the matter of appointment and tenure of office; to such end, the charter (§§ 140-143) establishes a classified civil service system, with exclusive power in the civil service commission to provide qualified personnel for the various municipal departments and to classify or reclassify positions according to prescribed duties. **Hanley v. Murphy** (1953) 40 Cal. (2d) 572, 255 Pac. (2d) 1.

"Positions" in "departments and offices" of the city, within the provision of this section as to what is included in the classified civil service, connote employment to render services at a salary paid periodically. **Kennedy v. Ross** (1946) 28 Cal. (2d) 569, 170 Pac. (2d) 904.

An independent contractor engaged to do a specific professional task, such as a consulting engineer who for a stated consideration agrees to prepare and furnish plans, specifications, estimates, etc., required for a proposed sewage disposal project, and his assistants, do not become city employees in either temporary or permanent positions in the sense intended by subd. 4 of the first paragraph of this section, and an order of exemption by the civil service commission is not required. **Kennedy v. Ross** (1946) 28 Cal. (2d) 569, 170 Pac. (2d) 904.

An employee who had for more than one year prior to the effective date of the charter held a position on a project outside the boundaries of San Francisco was blanketed into his position by the provisions of this section continuing incumbents in their positions that had previously been exempt from civil service examinations, despite the fact that he did not fulfill the residence requirements of the charter. **Archer v. Civil Service Commission** (1943) 1 Cal. (2d) 357, 34 Pac. (2d) 1023.

The requirement under this section that all positions be included in the classified civil service and filled from lists of eligibles and applying to persons employed in positions in any department for expert professional temporary services is not violated by the making of the contract with a civil engineer for a traffic study where such a person is not to be placed in any position provided for by the charter. **San Francisco v. Boyd (1941) 17 Cal. (2d) 606, 110 Pac. (2d) 1036.**

Under the terms of this section continuing incumbents in those positions previously exempt from civil service examinations an employee of a project outside the city was entitled to his salary even though part of his work was actually performed within the city. **Cutting v. McKinley** (1933) 130 Cal. App. 136, 19 Pac. (2d) 507.

(8.200)* § 143. Procedure.

The civil service system rests on the principle of application of the merit system instead of the spoils system in the matter of appointment and tenure office; to such end, the charter (§§

140-143) establishes a classified civil service system, with exclusive power in the civil service commission to provide qualified personnel for the various municipal departments and to classify or reclassify positions according to prescribed duties. **Hanley v. Murphy** (1953) 40 Cal. (2d) 572, 255 Pac. (2d) 1.

In the provision of this section that the only method for the creation of new positions in any department is by appropriation ordinance, the word "position" is used as embracing both officers and employees. **Brown v. Boyd** (1939) 33 Cal. App. (2d) 416, 91 Pac. (2d) 926.

(8.320)* § 144. Qualifications of Applicants.

Any rule adopted by the civil service commission in the exercise of its powers under this section must be reasonable and not operate to discriminate unreasonably between qualified applicants for positions; if unreasonable, those discriminated against have been denied the equal protection guaranteed by the state and federal constitutions. **Terry v. Civil Service Commission** (1952) 108 Cal. App. (2d) 861, 240 Pac. (2d) 691.

The requirement of a college education for applicants to take the examination for playground director is a reasonable exercise of the power of the civil service commission, under this section, to adopt rules and regulations fixing the conditions under which applicants may take civil service examinations and to establish educational requirements for certain positions. **Terry v. Civil Service Commission** (1952) 108 Cal. App. (2d) 861, 240 Pac. (2d)691.

A requirement for the position of playground director that university or college education, to be acceptable must be in universities or colleges on the accepted list of only the Association of American Universities or the Northwestern Association of Secondary and Higher Schools, and the denial of applications on the sole ground that they did not meet this requirement, was an unreasonable discrimination against graduates of schools accredited by other regional associations and an invalid exercise of the power of the civil service commission under this section. **Terry v. Civil Service Commission** (1952) 108 Cal. App. (2d) 861, 240 Pac. (2d) 691.

This section imposes as conditions precedent to taking an examination the requirements of § 7 — citizenship and one year's residence in San Francisco. **Dierson v. Civil Service Commission** (1941) 43 Cal. App. (2d) 53, 110 Pac. (2d) 513.

(8.320, 8.321)* § 145. Qualifications and Tests.

Unless rules promulgated by the civil service commission under powers conferred on it by this section are wholly unreasonable, arbitrary or such an abuse of discretion that they transcend the purpose for which the power was conferred, a court will not substitute its opinion or discretion for that of the commission. **Cotter v. Wolff** (1948) 88 Cal. App. (2d) 376, 198 Pac. (2d) 950.

The provision of this section that applicants for positions in the uniformed forces of the fire and police departments "shall have the physical qualifications for enlistment" in the armed forces prescribes standards of minimum qualifications; and under the provision making the civil service commission "the sole judge of the adequacy of the tests," it may require additional qualifications with which the courts will not interfere in the absence of a showing that they are arbitrary, capricious, or unreasonable. **Cotter v. Wolff** (1948) 88 Cal. App. (2d) 376, 198 Pac. (2d) 950.

Names of policemen placed on the eligible list under the old charter could be removed by the commission under this section of the new charter where the names were on the list for over two years and, since the power of the commission to strike off names after two years was identical under both charters, the commission did not give the new charter a retroactive interpretation in thus striking the names. **Jensen v. Civil Service Commission** (1935) 4 Cal. (2d) 334, 49 Pac. (2d) 283.

It was not the intent of the charter to have courts review the questions and answers of persons examined under this section in a competitive test devoid of prejudice, caprice and arbitrary action, practical in its character, given and determined in good faith by persons of a high degree of proficiency. **Mitchell v. McKevitt** (1932) 128 Cal. App. 458, 17 Pac. (2d) 789.

Under the provision (of former § 10, Art. XIII) that the commissioners "may strike off the names of candidates from the register after they have remained thereon more than two years they could remove a name from the register after two years even though at various times the candidate had been given temporary or seasonal employment and was so employed at the time of the removal of his name. **Gilbert v. Civil Service Commission** (1923) 61 Cal. App. 459, 215 Pac. 97.

Under the provision of former § 10, Art. XIII, that the commission may strike off names of candidates from the register after two years, it may, upon no consideration other than that the list has been in force for two years, expunge it. **Mann v. Tracy** (1921) 185 Cal. 272, 196 Pac. 484.

The provision (of former § 4, Art. XIII) that examinations shall be practical in their character was not violated by the commissioners in concluding that a person with the prescribed experience as a veterinarian might be as well qualified as one of actual experience to supervise the work of canners, curers, packers, and preparers of meat and to inspect meat and meat products on sale. **Pratt v. Rosenthal** (1919) 181 Cal. 158, 183 Pac. 542.

The provision (of former § 10, Art. XIII) that the civil service commission may remove names from the list of eligibles after two years gave the commission its only authority to so remove names. **Cook v. Civil Service Commission of San Francisco** (1911) 160 Cal. 598, 117 Pac. 663.

A person was not removed from the register of eligibles (provided under former § 7 Art. XIII) and did not become a permanent employee by virtue of appointments which were limited in time by the resolutions making them. **Rodrique v. Rogers** (1906) 4 Cal. App. 257, 87 Pac. 563.

(8.331)* § 145.1 Limited Tenure Appointments.

The provision in this section that dismissal of limited tenure employees shall be "with the approval of the Civil Service Commission" is plain in its terms and means that an appointing officer may not terminate the employment of a limited tenure employee without the approval of the Commission; it cannot be read to mean "without the approval of the Civil Service Commission if a court finds that the appointing officer had good cause." **McGill v. San Francisco** (1964) 231 Cal. App. (2d) 35, 41 Cal. Rptr. 568.

This section, which requires approval of an act by an officer, presumptively includes the right to disapprove. **McGill v. San Francisco** (1964) 231 Cal. App. (2d) 35, 41, Cal. Rptr. 568.

Where conductors, motormen and bus drivers appointed under this section were given credit for length of service under limited tenure employment in determining length of service upon which the base priority in the choice of carbarns, runs and vacation periods, this practice under the rules of the public utilities commission was within the discretion of the commission in the absence of a charter provision to the contrary. **Hart v. Landis** (1951) 103 Cal. App. (2d) 284, 229 Pac. (2d) 380.

(8.326)* § 146. Promotions.

This section does not place a limit on the kind of question or problem that can be propounded. It must pertain to matters concerning the duties of the department for which the examination is held. **Murphy v. Walsh** (1958) 158 Cal. App. (2d) 675, 323 Pac. (2d) 206.

Under the requirements of this section as to the subject matter of tests, the civil service

commission did not abuse its discretion in requiring the applicant to prepare a radio script where the subject matter of the script pertained to the duties of the position to be filled. **Murphy v. Walsh** (1958) 158 Cal. App. (2d) 675, 323 Pac. (2d) 206.

In setting up an open examination rather than a promotional examination for the position of maintenance chief at the San Francisco airport, the civil service commission did not abuse its discretion under this section. **Amerio v. San Francisco** (1954) 126 Cal. App. (2d) 271 Pac. (2d) 996.

In allowing consideration for meritorious service, this section makes credit for such service an integral part of the written examination, and such service is to be credited as of the date the examination is actually held in the absence of a valid rule or regulation prescribing a different date. **Conroy v. Wolff** (1950) 34 Cal. (2d) 745, 214 Pac. (2d) 529.

In a mandamus proceeding to compel the civil service commission to place the name of a police officer on the eligible list for promotion, brought following the allegedly erroneous denial of any points allowable for a clean record, the limit of the trial court's power, if it finds the petitioner to be entitled to relief, is to direct the commission to exercise its discretion in determining whether the officer is entitled to any of such points, and, if so, what part. **Conroy v. Civil Service Commission** (1946) 75 Cal. App. (2d) 450, 171 Pac. (2d) 500.

It was not an abuse of discretion for the civil service commission to declare that municipal railway conductors and motormen as well as inspectors were within "the next lower rank or ranks" eligible to take a promotional examination under this section to create an eligible list for the rank of special instructor where there were many overlapping salary ranges, and at least in the lower grades there was no clear cut priority of rank and therefore no precise method, without the exercise of discretion, for the determination. **Shannon v. McKinley** (1944) 62 Cal. App. (2d) 169, 144 Pac. (2d) 433.

Under the provision of this section that "The commission shall announce . . . the next lower rank or ranks from which the promotion will be made," the civil service commission has a wide discretion in determining the priority in ranks and in further determining the ranks falling in the category of the "next lower rank or ranks." And its determination will not be interfered with unless it clearly appears that the commission has abused its discretion. **Shannon v. McKinley** (1944) 62 Cal. App. (2d) 169, 144 Pac. (2d) 433.

The provision requiring the commission "whenever it deems it practicable" to give promotional and not open examinations embodies one of the fundamental concepts of a sound civil service system. **Allen v. McKinley** (1941) 18 Cal. (2d) 697, 117 Pac. (2d) 342.

The requirement of this section that promotional examinations shall be held when practicable is intended to promote efficiency among public employees. **Allen v. McKinley** (1941) 18 Cal. (2d) 697, 117 Pac. (2d) 342.

While this section makes it the duty of the commission to provide for a promotional examination whenever "it deems it to be practicable" whereas the old charter provided for such examination "whenever practicable," the two sections should be construed to mean substantially the same thing, that is, that under the old section as under the new, the question as to whether a promotional examination is practicable is confined to the limited discretion of the commission. **Allen v. McKinley** (1941) 18 Cal. (2d) 697, 117 Pac. (2d) 342.

Under this section promotional examinations, except for those in the lowest ranks, are required to be held unless they are not practicable, and in determining whether or not they are practicable the commission does not possess unlimited discretion. **Allen v. McKinley** (1941) 18 Cal. (2d) 697, 117 Pac. (2d) 342.

The requirement of this section that the commission, where it deems it practicable, shall provide for promotional examinations is mandatory, and, if there are qualified persons eligible to such examination, the commission can only ascertain if it is impracticable to give a promotional examination after those eligible have been given such examination. **Allen v.**

McKinley (1941) 18 Cal. (2d) 697, 117 Pac. (2d) 342.

In giving an open and original examination, instead of a promotional one, for creating an eligible list for the position of adjuster in the tax collector's office, the civil service commission abused its discretion where there were a large number of persons in the service fully qualified to take the examination for the eligible list for that position. **Allen v. McKinley** (1941) 18 Cal. (2d) 697, 117 Pac. (2d) 342.

(8.328)* § 146.1 Promotional Examinations for Employees on Military Leave.

The declaration of cessation of hostilities of World War II, issued by the President of the United States on December 31, 1946, was not, and there has not been a proclamation of peace or termination of the national emergency within the meaning of this section. **Lynch v. San Francisco** (Apr. 17, 1953) 117 Cal. App. (2d) 347, 255 Pac. (2d) 827.

(8.325)* § 147. Aid, Hindrance, Fraud and Collusion in Examinations.

The provision (of former § 18 Art. XIII) prohibiting the furnishing of special or secret information was not violated by the civil service commission's notice that it had limited supply of the regulations of the board of health and would furnish them to examination applicants so long as the supply lasted. **Pratt v. Rosenthal** (1919) 181 Cal. 158, 183 Pac. 542.

(8.340)* § 148. Dismissal During Probation Period.

The notice requirement of this section is not technically applicable to section 171.1.3, since under the latter section a fireman is not being terminated but is being compulsorily retired. **Barber v. Retirement Board of the City and County of San Francisco** (1971) 18 Cal. App. (3d) 273, 95 Cal. Rptr. 657.

When substantial evidence of the unfitness of a probationary policeman, concerning his conduct prior to appointment, becomes known to the police chief and this evidence was not made available to or considered by the civil service commission at the time it placed the candidate on the eligible list, the police chief has the discretion to act on such evidence by terminating the appointment. **Puckett v. San Francisco** (1962) 208 Cal. App. (2d) 471, 25 Cal. Rptr. 276.

While this section is silent as to the manner of giving notice, Civil Service Rule 23, in which reference is made to "mail" and notice being "sent" contemplates that notice may be mailed. **Matthews v. Civil Service Commission** (1958) 158 Cal. App. (2d) 169, 322 Pac. (2d) 234.

The duty imposed upon the commission by this section to certify the name of the person ranking highest on the current list of eligibles for the position to be filled cannot be circumvented by a rule of the commission. **Ballf v. Civil Service Commission** (1941) 43 Cal. App. (2d) 211, 110 Pac. (2d) 478.

This section imposes upon the commission the imperative duty to certify the name of the person standing highest on the list of eligibles, and, where such person holds a position of a classification different from that requisitioned, the commission is not justified in failing to certify his name by its own rule purporting to confer upon it discretionary power in respect to transfers to permanent positions of the same classification under different appointing officers. **Ballf v. Civil Service Commission** (1941) 43 Cal. App. (2d) 211, 110 Pac. (2d) 478.

A judgment for petitioner in mandamus compelling the civil service commission to certify his name to the board of supervisors for the position of general clerk-stenographer is erroneous in so far as it attempts to relieve petitioner of the necessity of passing a probationary period in the new position. **Ballf v. Civil Service Commission** (1941) 43 Cal. App. (2d) 211, 110 Pac. (2d) 478.

Where appointment for temporary employment was made under the former charter in a

position designated as temporary, followed by discharge and immediate re-appointment, the appointment became permanent under former charter § 10, Art. XIII; the fact that the re-appointment was made after the effective date of the present charter under which, by this section, the commission was granted the power to determine the duration of appointments was immaterial. **Doerr v. Civil Service Commission** (1937) 21 Cal. App. (2d) 173, 68 Pac. (2d) 731.

Under its rule-making power (granted by former charter § 3, Art. XIII) the civil service commission had no power to adopt a rule whereby positions which were neither temporary in fact nor temporary by the law of their creation, but were in fact permanent, could be designated temporary. **McGillicuddy v. Civil Service Commission** (1933) 133 Cal. App. 782, 24 Pac. (2d) 942.

Under the provision (of former charter § 10, Art. XIII) that an appointment was deemed complete if the employee was not discharged prior to expiration of the probation period, appointments to positions which came to exist in a reasonable degree of continuity and permanency became permanent although they were designated as temporary in a succession or re-appointments subsequent to the probation period. **McGillicuddy v. Civil Service Commission** (1933) 133 Cal. App. 782, 24 Pac. (2d) 942.

A person was not removed from the register of eligibles (provided under former § 7, Art. XIII) and did not become a permanent employee by virtue of appointments which were limited in time by the resolutions making them. **Rodrigue v. Rogers** (1906) 4 Cal. App. 257, 87 Pac. 563.

(8.332)* § 149. Temporary and Emergency Appointments.

An assistant who is appointed to temporarily fill a vacancy in a supervisory position and given the entrance salary provided by ordinance for persons appointed to fill vacancies cannot, whether his appointment rests in this section or § 141, claim the salary attached to the superior position. **Dun v. Civil Service Commission** (1935) 3 Cal. App. (2d) 554, 40 Pac. (2d) 310.

(8.400)* 150. General Rules for Establishing and Paying Compensation.

This section, providing that no officer or employee shall be paid for a greater time than that covered by his actual service, does not bar rights to vacation pay under § 151.5 to employees separated from employment prior to the effective date of that section, for the intent to make such payment is clear from § 151.5, and that section, being later in time, would control this earlier provision. **Tevis v. City and County of San Francisco** (1954) 43 Cal. (2d) 190, 272 Pac. (2d) 757.

Computing wages of municipal railway employees under § 151.3 on the basis of wage schedules of other street railways in California does not require consideration of the guaranteed minimum hours provisions of those schedules, for under this section (§ 150) payments of wages for such guaranteed minimum hours may not be made to an employee who did not work for that amount of time. It would be necessary, in order to pay each employee for a minimum of eight hours, to revise the entire operating schedule to provide for such hours, and to revise it continually and at great effort and expense, a result not intended by the people in adopting the charter section. **Gowenlock v. Turner** (1954) 42 Cal. (2d) 296, 267 Pac. (2d) 310.

In determining the question of the personal liability of the controller for the allowance, and the treasurer for the payment, of salary claims illegally approved by an appointing officer, this section and § 73 must be read with § 86. **Galli v. Brown** (1952) 110 Cal. App. (2d) 764, 243 Pac. (2d) 920.

In allowing and paying salary claims, the controller and the treasurer are not required under § 86, when read together with this section and § 73, to pass upon the legality of the claimant's

appointment; they are simply required to see to it that payments are not made unless they comply with procedure set up in the charter; they are not required to go beyond the certifications of the department head and the secretary of the commission as to the legality of the appointment. **Galli v. Brown** (1952) 110 Cal. App. (2d) 764, 243 Pac. (2d) 920.

(8.400)* § 151. Compensation of Officers and Employees Subject to Salary Standardization.

The courts will not intertere with the rate-making authority in the matter of setting salaries at prevailing rates unless the rates are so palpably unreasonable and arbitrary as to indicate an abuse of discretion as a matter of law, or where there is fraud. **San Francisco Chamber of Commerce v. City and County of San Francisco** (1969) 275 Cal. App. (2d) 499, 79 Cal. Rptr. 915.

Although the Charter requires that the civil service commission shall recommend schedules of compensation solely on the basis of its survey of wages, it does not purport to bind the supervisors to ratify the schedule proposed by the commission by enacting it into ordinance. **San Francisco Chamber of Commerce v. City and County of San Francisco** (1969) 275 Cal. App. (2d) 499, 79 Cal. Rptr. 915.

The determining of prevailing wage rates is primarily for the legislative branch. **San Francisco Chamber of Commerce v. City and County of San Francisco** (1969) 275 Cal. App. (2d) 499, 79 Cal. Rptr. 915.

Where the civil service commission schedule of compensation recommended an increase of 7½ percent or more for some employees, 5 percent for others, 2½ percent for others, and no increase for some, and where the Board of Supervisors amended the proposed schedule by enacting the salary ordinance with a 5 percent across-the-board increase, such salary ordinance was not invalid on the grounds it set rates that were so palpably unreasonable and arbitrary as to indicate an abuse of discretion as a matter of law. **San Francisco Chamber of Commerce v. City and County of San Francisco** (1969) 275 Cal. App. (2d) 499, 79 Cal. Rptr. 915.

The provision that "like compensation shall be paid for like service, based upon the classification as provided in section 141 of the charter," is not in conflict with the provision of section 141 that "the allocation or re-allocation of a position shall not adversely affect the civil service rights of an occupant regularly holding such position." The latter provision is applied in all cases except where compliance therewith would adversely affect the salary and other civil service rights of incumbents regularly employed by the city. **Forstner v. City and County of San Francisco** (1966) 239 Cal. App. (2d) 516, 48 Cal. Rptr. 805.

Where the civil service commission certified a contract rate in March, 1955, as required under § 151.3, and in June discovered a change in conditions placing the employees under § 151, rather than in § 151.3, it was too late to proceed under § 151 for that year because of the provision that the Board of Supervisors must adopt salary schedules not later than April 1. **Miller v. San Francisco** (1959) 174 Cal. App. (2d) 109, 344 Pac. (2d) 102.

The board of supervisors, in the salary standardization process, engages in a discretionary fact finding process which is legislative in character and therefore within the referendum process. **Collins v. San Francisco** (1952) 112 Cal. App. (2d) 719, 247 Pac. (2d) 362.

A salary standardization ordinance is a proper subject for referendum, although § 179 excludes from referendum those ordinances relative to purely administrative matters, and includes those involving legislative matters, since the board of supervisors in fixing salaries under this section acts in a legislative capacity. **Collins v. San Francisco** (1952) 112 Cal. App. (2d) 719, 247 Pac. (2d) 362.

In determining whether the method for fixing rates of pay for city employees under this section applies, or whether such rates are to be fixed in conformance with collective

bargaining agreements as provided in § 151.3, the work actually being performed by the employee is the governing factor, not the classification under which they are hired. **Randall v. Wolff** (1950) 95 Cal. App. (2d) 795, 214 Pac. (2d) 58.

Annual vacations for municipal employees in the crafts and groups embraced by the provisions of § 151.3 relating to collective bargaining agreements were to be in accordance with those agreements and not as allowed municipal employees under the former provisions of this section (§ 151). **Adams v. San Francisco** (1949) 94 Cal. App. (2d) 586, 211 Pac. (2d) 368; 212 Pac. (2d) 272.

During an emergency this section may be superseded by emergency action by the mayor under § 25. **Mullins v. Henderson** (1946) 75 Cal. App. (2d) 117, 170 Pac. (2d) 118.

Emergency proclamations of the mayor under § 25 fixing the compensation of employees of a newly acquired street railway were not repealed by standardization and annual salary ordinances subsequently adopted under this section where they did not deal with the actual emergency, but were based on normal pay and were enacted as part of the ordinary financial machinery of the city, to become effective only after the emergency had passed. **Mullins v. Henderson** (1946) 75 Cal. App. (2d) 117, 170 Pac. (2d) 118.

The provision of this section that the compensation for municipal employees "shall be in accord with the generally prevailing rate of wages for like service and working conditions in private employment or in other comparable governmental organizations in this state," does not require that the rates of wages recommended by the civil service commission or fixed by the board of supervisors be identical with or not higher than the generally prevailing rates, but rather that there be a reasonable or just correspondence between the rates established and those elsewhere prevailing, i.e., that they be in harmony with and substantially conform to such other rates. **San Francisco v. Boyd** (1943) 22 Cal. (2d) 685, 140 Pac. (2d) 666.

There was a substantial compliance with the procedural requirements of this section where the civil service commission made a survey of rates of wages paid in like employment for like service and where, although the commission did not set forth in the official record of its proceedings all of the data obtained in its investigation or set forth an order making its findings as to the general prevailing rates, it did in formulating its recommendations have before it and consider all the facts collected in the survey, and it set forth a summary of wage recommendations and supporting data, which listed the present rate paid by the municipality, the prevailing union wages and appropriate prevailing wage for all the designated employees. **San Francisco v. Boyd** (1943) 22 Cal. (2d) 685, 140 Pan. (2d) 666.

(8.403)* § 151.3 Standardization of Compensation.

The purpose of this section is to provide a standard for determining pay rates that will insure city civil service employees a wage scale commensurate with wages received by workers in the same field in private industry. **Thomlinson v. San Francisco** (1964) 227 Cal. App. (2d) 619, 38 Cal. Rptr. 863.

The provision in this section calling for review of collective bargaining agreements in private industry as of July 1 and for the certification on or before the second Monday of July of any modification of rates established thereunder is to insure that rates of pay for city and county employees established by such private industry agreements for the new fiscal year shall be those actually prevailing on July 1. **Thomlinson v. San Francisco** (1964) 227 Cal. App. (2d) 619, 38 Cal. Rptr. 863.

Though the provision of San Francisco Charter, § 151.3, making the wage rates of groups or crafts in private employment the standard for setting wage rates for groups or crafts employed by the city, protects civil service employees covered by it as to modifications of rates of pay in private industry between April 1 and July 1 of any year, the basic purpose of the section predominates, that is, that the employee shall be entitled to the rate of pay generally prevailing in private employment in San Francisco on July 1, whether that be more or less than

that prevailing on or prior to April 1. **Thomlinson v. San Francisco** (1964) 227 Cal. App. (2d) 619, 38 Cal. Rptr. 863.

Under this section the civil service commission is required to certify the rate of pay generally prevailing in private employment in San Francisco to establish the wage scale for city and county employees and has the implied power to correct any error in certifying inapplicable rates. **Thomlinson v. San Francisco** (1964) 227 Cal. App. (2d) 619, 38 Cal. Rptr. 863.

This section must be applied in a manner which is consonant with its objective and also fair and just, not only to the employees involved, but also to the general public. **Thomlinson v. San Francisco** (1964) 227 Cal. App. ()d) 619, 38 Cal. Rptr. 863.

Where civil service commission had before it the different contracts between union and management covering maintenance machinists in private industry, together with rates of pay for different groups of employers, and conducted its surveys in a manner reasonably calculated to discover all facts that might bear significantly on the problem to be solved, it did not abuse its discretion under this section. **Miller v. San Francisco** (1959) 174 Cal. App. (2d) 109, 344 Pac. (2d) 102.

Where the civil service commission certified a contract rate in March, 1955, as required under this section, and in June discovered a change in conditions placing the employees under § 151, rather than this section, it was too late to proceed under this section for that year because of the provision that the Board of Supervisors must adopt salary schedules not later than April 1. **Miller v. San Francisco** (1959) 174 Cal. App. (2d) 109, 344 Pac. (2d) 102.

Fixed monthly contributions for health and welfare purposes made by private employers under collective bargaining agreements are part of the employees' basic rate of pay, or take home pay, hence within the "rate of pay" provided for in this section for members of groups or crafts employed by the city. **Martin v. San Francisco** (1959) 168 Cal. App. (2d) 570, 336 Pac. (2d) 239.

Where the city did not make health and welfare contributions on behalf of its employees in groups or crafts that private employers made under collective bargaining agreements, and made deductions under § 172.1 for the city's health plan, city employees were not receiving the same take home pay as their counterparts in private industry, as required by this section; and employees were entitled to recover amounts deducted, adjusted to compensate for the difference in cost of like protecton in the two systems plus an amount that would reasonably compensate for the broader coverage, if any, under the private system, with credit to the city for contributions made under § 172.1.11. **Martin v. San Francisco** (1959) 168Cal. App. (2d) 570, 336 Pac. (2d) 239.

Waivers, by employees, of collective bargaining provisions of ordinances enacted pursuant to this section are valid. **O'Sullivan v. City and County of San Francisco** (1956) 145 Cal. App. (2d) 415, 302 Pac. (2d) 688.

Retroactive application of this section to allow vacation payments to employees separated from employment with the city before the effective date of this section is a municipal affair and therefore not in violation of Const., Art. IV, §§ 31, 32, prohibiting gifts of public funds or grants of extra compensation. **Tevis v. San Francisco** (1954) 43 Cal. (2d) 190, 272 Pac. (2d) 757.

This section is a direct limitation upon the wide discretion generally allowed the board of supervisors in computing wages and salaries. **Gowenlock v. Turner** (1954) 42 Cal. (2d) 296, 267 Pac. (2d) 310.

Both parts of this section, the earlier part and the portion relating specifically to municipal railway employees, are aimed at providing standards of compensation for particular groups of city employees and vary only as to the methods used in determining them. No distinction was

intended between the use of the term "rate of pay" in the earlier part and "wages" and "wage schedules" in the second part, where "rate of pay" and "wages" are used interchangeably. **Gowenlock v. Turner** (1954) 42 Cal. (2d) 296, 267 Pac. (2d) 310.

This section cannot be construed as requiring the city officials, instead of attempting to effectuate any specific guarantee of hours for municipal railway employees, to assign a monetary value to such a benefit and average it with the wages stated in the schedules consulted. **Gowenlock v. Turner** (1954) 42 Cal. (2d) 296, 267 Pac. (2d) 310.

A guarantee as to minimum hours of work is a provision outside the scope of a charter section establishing a method of computing a basic "rate of pay" for employees; it does not affect the rate of an employee's pay, that is, the amount of compensation per unit of work, it deals only with the number of hours of work to which an employee may claim to be entitled. **Gowenlock v. Turner** (1954) 42 Cal. (2d) 296, 267 Pac. (2d) 310.

The wages of municipal railway employees cannot be fixed by the formula in the provision of this section that where there is established "a rate of pay . . . for groups or crafts through collective bargaining agreements with employers employing such groups or crafts, and such rate is recognized and paid throughout the industry, and the establishments employing such groups or crafts in San Francisco," the civil service commission must certify to the board of supervisors the prevailing rates, for nearly all of the public transportation service in San Francisco has been performed by the municipal railway and accordingly there is no "prevailing rate of pay" established for street railway employees within the city and county. **Gowenlock v. Turner** (1954) 42 Cal. (2d) 296, 267 Pac. (2d) 310.

Computing wages of municipal railway employees under this section on the basis of wage schedules of other street railways in California does not require consideration of the guaranteed minimum hour provisions of those schedules, for under § 150 payments of wages for such guaranteed minimum hours may not be made to an employee who did not work for that amount of time. It would be necessary, in order to pay each employee for a minimum of eight hours, to revise the entire operating schedule to provide for such hours, and to revise it continually and at great effort and expense, a result not intended by the people in adopting a charter section. **Gowenlock v. Turner** (1954) 42 Cal. (2d) 296, 267 Pac. (2d) 310.

By a provision in this section that city employees are entitled to the same "rate of pay" as established by collective bargaining for groups and crafts in private employment is meant that if the private employee is entitled to a certain amount for a week's work so also is the city employee. **Sheehan v. San Francisco** (1954) 124 Cal. App. (2d) 769, 269 Pac. (2d) 678.

Where the city observes a holiday and thus prevents its employees from working, it cannot deduct the day from the pay of employees who are members of groups and crafts embraced by this section on the ground that such day is not one which is designated in the group or craft's collective bargaining agreement as a day off with pay. **Sheehan v. San Francisco** (1954) 124 Cal. App. (2d) 769, 269 Pac. (2d) 678.

Under § 151 which provides that the board may approve, amend or reject schedules of compensation proposed by the commission, and under this section which provides that a rate of pay fixed by the board shall be determined on the basis of rates of pay certified by the commission, the charter is prescribing the manner in which the board shall exercise certain of its powers as contemplated by § 9. **Butler v. San Francisco** (1951) 104 Cal. App. (2d) 126, 231 Pac. (2d) 75.

The board of supervisors must comply with the procedural requirements and time limits prescribed in this section, and it is not the duty of the board, when amending the annual appropriation and salary ordinances on or before July 25 in any year, to fix the compensation of members of groupsor crafts, at the rate established by bargaining agreements if such agreements are executed after the second Monday in July and prior to the adoption of the

amendatory ordinances. **Butler v. San Francisco** (1951) 104 Cal. App. (2d) 126, 231 Pac (2d) 75.

In determining whether rates of pay to city employees are to be fixed in conformance with collective bargaining agreements, as provided in this section, or whether the method under § 151 applies, the work actually being performed by the employee is the governing factor, not the classification under which they are hired. **Randall v. Wolff** (1950) 95 Cal. App. (2d) 795, 214 Pac. (2d) 58.

This section, providing for regulation of rates of pay of municipal employees in certain crafts or groups according to collective bargaining in private employment, does not govern the sick and disability leaves provided for municipal employees by § 153 of the charter, rule 32 of the civil service commission, and part 1, § 301, of the municipal code, since such leaves are not an element of the compensation of such employees. **Adams v. San Francisco** (1949) 94 Cal. App. (2d) 586, 221 Pac. (2d) 368, 212 Pac. (2d) 272.

Annual vacations for municipal employees in the crafts and groups embraced by the provisions of this section relating to collective bargaining agreements were to be in accordance with those agreements and not as allowed municipal employees under the former provisions of § 151. **Adams v. San Francisco** (1949) 94 Cal. App. (2d) 586, 211 Pac. (2d) 368, 212 Pac. (2d) 272.

The hiring and paying of municipal employees is a municipal affair, and a charter provision like this section is for the "government of San Francisco within Const. Art. XI, § 8." **Adams v. Wolff** (1948) 84 Cal. App. (2d) 435, 190 Pac. (2d) 665.

This section is not an unconstitutional delegation of legislative power. **Adams v. Wolff** (1948) 84 Cal. App. (2d) 435, 190 Pac. (2d) 665.

The argument that this section has a viciousness that may have tremendous repercussions on city government generally, is not tenable in a court which is not concerned with the wisdom of the law. **Adams v. Wolff** (1948) 84 Cal. App. (2d) 435, 190 Pac. (2d) 665.

This section relates to "take home pay" of employees, and extends to premium pay for work on night shifts and pay for holidays. **Adams v. Wolff** (1948) 84 Cal. App. (2d) 435, 190 Pac. (2d) 665.

This section is not subject to objection on the ground that it is not one of the matters enumerated in Const. Art. XI, § 8½. **Adams v. Wolff** (1948) 84 Cal. App. (2d) 435, 190 Pac. (2d) 665.

This section does not provide for collective bargaining by employees, or contravene the state policy precluding such bargaining by public corporations. **Adams v. Wolff** (1948) 84 Cal. App. (2d) 435, 190 Pac. (2d) 665.

This section does not violate Const. Art. XI, § 13, which is merely a restraint on the state legislature's interference with municipal affairs. **Adams v. Wolff** (1948) 84 Cal. App. (2d) 435, 190 Pac. (2d) 665.

(8.404)* § 151.3.1 Compensation of Platform Employees and Coach and Bus Operators of the Municipal Railway.

The interpretation of a Charter provision is a proper matter for declaratory relief. **Squire v. City and County of San Francisco** (1970) 12 Cal. App. (3d) 974, 91 Cal. Rptr. 347.

Rules of statutory construction are applied to the interpretation of Charter provisions, and the language of a Charter must be given its plain meaning. **Squire v. City and County of San Francisco** (1970) 12 Cal. App. (3d) 974, 91 Cal. Rptr. 347.

The term "wage schedule" as used in this section refers to a printed list containing hourly wages to be paid to municipal railway operators; and the amounts included in such a list must necessarily be fixed and certain. **Squire v. City and County of San Francisco** (1970) 12 Cal. App. (3d) 974, 91 Cal. Rptr. 347.

This section makes no provision for quarterly cost-of-living adjustments based on the movements of a Consumer Price Index. **Squire v. City and County of San Francisco** (1970) 12 Cal. App. (3d) 974, 91 Cal. Rptr. 347.

The definition of a "wage schedule" as used in this section includes only the maximum rate of pay provided in each such wage schedule, and does not include cost-of-living adjustments that may be added to the rate of pay pursuant to other sections of a collective bargaining agreement. **Squire v. City and County of San Francisco** (1970) 12 Cal. App. (3d) 974, 91 Cal. Rptr. 347.

The purpose of this section is to permit the municipal railway operators to catch up with other employees generally in their fringe benefits. **Squire v. City and County of San Francisco** (1970) 12 Cal. App. (3d) 974, 91 Cal. Rptr. 347.

Mandamus is a proper remedy to compel city officials to perform their Charter-prescribed duties; and where these duties are continuing ones, the writ may be directed to future actions. **Squire v. City and County of San Francisco** (1970) 12 Cal. App. (3d) 974, 91 Cal. Rptr. 347.

(8.440)* § 151.5. Vacations for Per Diem Workers.

This section by its express terms provides that it shall have some retroactive application, and hence vacation pay is properly granted to city employees who left the city service shortly prior to passage of this section. **Boyer v. County of Contra Costa** (1965) 235 Cal. App. (2d) 111, 45 Cal. Rptr. 58.

The clear purpose of subsection (c) of this section is to validate payments made for vacations to which employees were not entitled under collective bargaining agreements and to authorize the city to pay for vacation time in employment where, because of such agreements, no vacation pay was allowed. **Tevis v. San Francisco** (1954) 43 Cal. (2d) 190, 272 Pac. (2d) 757.

The right of employees to receive accumulated vacation pay under this section accruing on the effective date, September 26, 1950, the legal liability of the City and County for payment should have been treated as an obligation for the fiscal year 1950-1951. **Tevis v. San Francisco** (1954) 43 Cal. (2d) 190, 272 Pac. (2d) 757.

Rights to vacation pay under this section to employees separated from employment prior to the effective date of this section are not barred by the provision in § 150 that no officer or employee shall be paid for a greater time than that covered by his actual service, for the intent to make such payment is clear from this section which, being later in time, would control the earlier provision. **Tevis v. San Francisco** (1954) 43 Cal. (2d) 190, 272 Pac. (2d) 757.

In fixing the method in which vacations are to be computed, the reference in this section to section 375 of part I of the Municipal Code, which allows an annual vacation to an employee "as long as he remains in the City and County service," does not mean that separation from service should in any way affect an employee's right to receive pay for accrued vacation rights; it is unreasonable to conclude that the framers of the charter amendment, by reference to sections of the Municipal Code dealing with vacations, intended to make continued service a condition precedent to receiving payment of vacation pay as a reward for services previously performed. **Tevis v. San Francisco** (1954) 43 Cal. (2d) 190, 272 Pac. (2d) 757.

(8.361)* § 153. Military and War Effort Leaves of Absence.

The declaration of cessation of hostilities of World War II, issued by the President of the United States on December 31, 1946, was not, and there has not been, a proclamation of peace or termination of the national emergency within the meaning of this section. **Lynch v. San Francisco** (Apr. 17, 1953) 117 Cal. App. (2d) 347, 255 Pac. (2d) 827.

The sick and disability leaves for municipal employees which are provided by this section, rule 32 of the civil service commission, and part I, § 301 of the Municipal Code, are not

governed by § 151.3, providing for regulation of pay rates of municipal employees in accordance with collective bargaining agreements in private industry, since such leaves are not an element of compensation of such employees. **Adams v. San Francisco** (1949) 94 Cal. App. (2d) 586, 211 Pac. (2d) 368, 212 Pac. (2d) 272.

A judgment for petitioner in mandamus compelling the civil service commission to certify his name to the board of supervisors to the position of general clerk stenographer in such board properly provided that petitioner be granted a leave of absence, without pay, from his present position as general clerk typist in the recorder's office while serving the probationary period in the new office. **Ballf v. Civil Service Commission** (1941) 43 Cal. App. (2d) 211, 110 Pac. (2d) 478.

(8.341)* § 154. Suspension and Dismissal for Cause.

Under a union agreement grievance procedure whereby a Municipal Railway employee is permitted to appeal a grievance relating to proposed disciplinary action to the manager of utilities, no public hearing is required under the Brown Act (Government Code Sections 54950 et seq.). The hearing before the manager is not a "meeting" of a "legislative body" within the meaning of the Brown Act, and this section entitles the employee to a public hearing when the proceedings attendant on his actual dismissal reach the appropriate stage. **Wilson v. San Francisco Municipal Railway** (1973) 29 Cal. App. (3d) 870, 105 Cal. Rptr. 855.

The right of appeal by a discharged employee is conferred solely by this section, and an employee desiring to appeal the order of discharge, after the hearing required before the discharging officer, must conform to the required procedure. **Smith v. City and County of San Francisco** (1970) 11 Cal. App. (3d) 606, 89 Cal. Rptr. 878.

An appellant's notice of appeal must briefly specify the grounds for the appeal. **Smith v. City and County of San Francisco** (1970) 11 Cal. App. (3d) 606, 89 Cal. Rptr. 878.

A hearing on appeal, following the required hearing before the discharging officer, is not required or contemplated under this section, and the commission may consider the transcript and the written grounds for appeal and act on them without more. **Smith v. City and County of San Francisco** (1970) 11 Cal. App. Pac. (3d) 606, 89 Cal. Rptr. 878.

Where the Commission requires "in writing any additional evidence it deems material," or where its examination extends to matters other than the record of the hearing, the discharged employee must be given the opportunity to know and to contest such additional matters. **Smith v. City and County of San Francisco** (1970) 11 Cal. App. (3d) 606, 89 Cal. Rptr. 878.

The fact that the hearing officer is also the appointing officer does not vitiate the procedure herein on the ground of unfairness. **Smith v. City and County of San Francisco** (1970) 11 Cal. App. (3d) 606, 89 Cal. Rptr. 878.

Procedural due process is not denied by this section, in requiring the appeal to be prosecuted in writing. **Smith v. City and County of San Francisco** (1970) 11 Cal. App. (3d) 606, 89 Cal. Rptr. 878.

The term "for cause" implies the existence of some fact that would constitute reasonable cause of removal; and in deciding whether the removal of a permanent employee was reasonable, the appellate court looks to the findings of the civil service commission rather than to the findings of the superior court that acted as the reviewing tribunal. **Forstner v. City and County of San Francisco** (1966) 243 Cal. App. (2d) 625, 52 Cal. Rptr. 621.

Insubordination by a civil service employee can be rightfully predicated only on a refusal to obey an order that a superior officer is entitled to give and to have obeyed, and the order must reasonably be related to the employee's duties. **Forstner v. City and County of San Francisco** (1966) 243 Cal. App. (2d) 625, 52 Cal. Rptr. 621.

The first sentence of this section, providing that a civil service employee shall not be removed or discharged "except for cause," is interpreted to mean that any reasonable, sufficient cause may be grounds for dismissal by the appointing officer. **Whoriskey v. San Francisco** (1963) 213 Cal. App. (2d) 400, 28 Cal. Rptr. 833.

The general power of the appointing officer to discharge is not limited by the specified grounds that apply when charges are filed by one other than the appointing officer. The appointing officer has a wide discretion in determining the fitness of an employee to continue performing the duties required by his employment. **Whoriskey v. San Francisco** (1963) 213 Cal. App. (2d) 400, 28 Cal. Rptr. 833.

The provision of this section for removal of an employee for cause, one of which is incompetence, is not subordinate to Section 2920 of the Labor Code, which specifies events terminating employment. **Reinfeld v. San Francisco City and County Employees Retirement System** (1958) 158 Cal. App. (2d) 460, 322 Pac. (2d) 508.

This section, in its provision for removal of an employee for incompetence after a hearing includes within its terms an employee who is mentally incapacitated. **Reinfeld v. San Francisco City and County Employees Retirement System** (1958) 158 Cal. App. (2d) 460, 322 Pac. (2d) 508.

Under this section the civil service commission acts de novo on appeal and its order supersedes the order appealed from **Denton v. San Francisco** (1953) 119 Cal. App. (2d) 369, 260 Pac. (2d) 83.

The power of the civil service commission upon the appeal provided for by this section is as broad as that of the appointing officer who hears and determines charges, and the commission, too, may "exonerate, suspend, or dismiss the accused." **Denton v. San Francisco** (1953) 119 Cal. App. (2d) 369, 260 Pac. (2d) 83.

The limit of 30 days upon the suspension that the appointing officer under this section may impose in the disciplinary proceeding, in which there is no right to hearing unless demanded and no right to appeal, does not apply to the suspension that may result from the more formal proceeding providing for written charges, hearing, and an unqualified right of appeal to the civil service commission. **Denton v. San Francisco** (1953) 119 Cal. App. (2d) 369, 260 Pac. (2d) 83.

The fact that the written charge under this section improperly charges an appointee with "incompetence" as well as insubordination is immaterial where the written charge and the accompanying police report fully set forth the facts and circumstances on which the accusation is based. **Scannell v. Wolff** (1948) 86 Cal. App. (2d) 489, 195 Pac. (¼D(⅝⅜¾.

The provision of this section forbidding removal except "upon written charges" is satisfied by a letter from the appointing officer and an accompanying police report setting forth the facts and circumstances on which the accusation is based. **Scannell v. Wolff** (1948) 86 Cal. App. (2d) 489, 195 Pac. (2d) 536.

The provision of this section that the commission on appeal "may require in writing additional evidence" does not authorize the admission of evidence which cannot be admitted on the trial itself, such as unsworn letters. **Scannell v. Wolff** (1948) 86 Cal. App. (2d) 489, 195 Pac. (2d) 536.

The appointing officer is not disqualified from sitting in judgment of proceedings under this section by the fact of prejudice or bias, since an otherwise disqualified administrative officer may act if his failure would result in a miscarriage of justice. **Scannell v. Wolff** (1948) 86 Cal. App. (2d) 489, 195 Pac. (2d) 536.

The action of the civil service commission in ordering "that this appeal be denied" is not beyond jurisdiction where the commission did in fact entertain the appeal and its order means that the application for reversal of the decision dismissing the employee is denied. **Scannell v. Wolff** (1948) 86 Cal. App. (2d) 489, 195 Pac. (2d) 536.

The civil service commission has no power to rescind its order dismissing an employee from his position in the municipal civil service in the absence of express authorization. **Hoertkorn v. Sullivan** (1944) 67 Cal. App. (2d) 151, 153 Pac. (2d) 367.

A temporary cessation or suspension from employment is not within the provision of this section prohibiting removal or discharge except for cause, upon written charges and after an opportunity to be heard. **Weigle v. San Francisco** (1937) 23 Cal. App. (2d) 274, 72 Pac. (2d) 902.

(8.343)* § 155. Fine, Suspension and Dismissal in Police and Fire Departments.

This section expressly authorizes dismissal for cause of a member of the fire or police department, even where there is no intentional breach of duty or misconduct on the part of the member. **O'Neal v. City and County of San Francisco** (1969) 272 Cal. App. (2d) 869, 77 Cal. Rptr. 855.

Physical inability to perform a policeman's duty caused from a disability resulting from illness not incurred in the line of duty is sufficient cause for dismissal. **O'Neal v. City and County of San Francisco** (1969) 272 Cal. App. (2d) 869, 77 Cal. Rptr. 855.

This section clearly provides authority in the fire chief to suspend without a prior hearing and affords ample protection of all the members' constitutional rights. **Apostoli v. City and County of San Francisco** (1969) 268 Cal. App. (2d) 728, 74 Cal. Rptr. 435.

The statutory power of the fire chief to suspend without a prior hearing is not without restrain; the suspended member has the right to appeal to the Fire Commission, and this appeal contemplates a full hearing with the right of a member to appear with counsel, to have a public trial, and to secure the attendance of witnesses for his defense. **Apostoli v. City and County of San Francisco** (1969) 268 ACA 786.

Where a fire department member suspended by the fire chief appeals to the Fire Commission, the commission has the power to reverse or alter the finding of the chief, and in case of reversal may in its discretion order that the member affected be paid salary for the period of suspension. **Apostoli v. City and County of San Francisco** (1969) 268 ACA 786, Cal. App. (2d) 268.

The formalities of this section and of Section 4403 of the Rules and Regulations of the Fire Department, relating to suspension by the fire chief without a hearing, are complied with by the delivery to the member of a copy of the City's investigating report on which the suspension was based. **Apostoli v. City and County of San Francisco** (1969) 74 Cal. Rptr. 435.

The police commission has no power under this secton to rehear a proceeding resulting in an order removing a police officer, in the absence of express authority. The power to punish after hearing does not carry the express power to revoke or to reinstate. **Hoertkorn v. Sullivan** (1944) 67 Cal. App. (2d) 151, 153 Pac. (2d) 367.

The charge against a police officer, under this section, in the form of an ordinary complaint and verified in the form prescribed for verification of pleadings in civil actions is sufficient in form. **Shewbridge v. Police Commission** (1944) 64 Cal. App. (2d) 787, 149 Pac. (2d) 429.

The general law requiring that rules and regulations for government of the police department shall prescribe a separate and distinct penalty for violation of each rule and regulation (See Stats. 1911, p. 1160; Deering's Gen. Laws, Act 6014) has no application in San Francisco. **Shewbridge v. Police Commission** (1944) 64 Cal. App. (2d) 787, 149 Pac. (2d) 429.

The complaint against a police officer may be verified before the chief of police in view of § 4, and Pol. Code §§ 343 (now Gov. Code, § 1001), 1028. **Christal v. Police Commission** (1939) 33 Cal. App. (2d) 564, 92 Pac. (2d) 416.

The exercise by a police officer of his constitutional privilege against testifying in a grand

jury investigation into the question of his commission of crime, is cause for dismissial under this section, even in the absence of any specific rule requiring an officer to testify before the grand jury or relating to conduct unbecoming an officer. **Christal v. Police Commission** (1939) 33 Cal. App. (2d) 564, 92 Pac. (2d) 416.

The authority conferred upon the commissioners by this section is pursuant to the Constitution and is of a judicial character exercised by a quasi-judicial body. **Ludolph v. Board of Police Commissioners** (1938) 30 Cal. App. (2d) 211, 86 Pac. (2d) 118.

The penalty imposed upon a member of the department found guilty of the charges brought against him under this section involves discretion of the administrative body, not its jurisdiction. **Ludolph v. Board of Police Commissioners** *(1938) 30 Cal. App. (2d) 211, 86 Pac. (2d) 118.*

The taking of evidence at a hearing for the purpose of determining the extent of punishment to be administered in accordance with this section, after previous trial and conviction, does not amount to being tried anew. **Ludolph v. Board of Police Commissioners** (1938) 30 Cal. App. (2d) 211, 86 Pac. (2d) 118.

Where an order dismissing an officer is made by the board in the proper exercise of its discretionary powers and after formal charge, trial and conviction under this section, such order will not be set aside by the courts. **Ludolph v. Board of Police Commissioners** (1938) 30 Cal. App. (2d) 211, 86 Pac. (2d) 118.

The duty of the commissioners on a trial of charges against a member of the police department, or on a hearing after his conviction, to fix his punishment cannot be diminished nor extended by his prior acquittal of charges brought by the grand jury. **Ludolph v. Board of Police Commissioners** (1938) 30 Cal. App. (2d) 211, 86 Pac. (2d) 118.

(no sec.)* **§ 162. Definition, Members of Fire and Police Departments.**

This section was intended to exclude from § 169 pension coverage all marine engineers who were not required to meet the 35-year age limitation prescribed for regular members of the fire department. **Carrick v. San Francisco** (1962) 202 Cal. App. (2d) 402, 20 Cal. Rptr. 878.

(8.511)* **§ 163. Pensions of Retired Persons.**

The provision of this section requiring the reduction of pensions when retired persons engage in gainful occupations is not subject to the objection that it is discriminatory and violates Const. Arts. I, § 11, by reason of the fact that by its terms it is inapplicable to persons over 62, those who retired on account of disability, or those under 62 whose income is not derived from gainful employment. **Brophy v. Employees Retirement System** (1945) 71 Cal. App. (2d) 455, 162 Pac. (2d) 939.

The pension of a fireman who was appointed prior to the operative date of the present charter, and who prior to that date had served a substantial part of the time required to entitle him to a pension was nonetheless subject to the provisions of this section requiring a reduction of a pension when a retired person engages in gainful occupation. **Brophy v. Employees Retirement System** (1945) 71 Cal. App. (2d) 455, 162 Pac. (2d) 939.

The 1945 amendment to the section, providing that it "shall be inoperative" during the existing war, etc., is not retroactive, and applies only from the date of the amendment to six months after the end of the war. **Brophy v. Employees Retirement System** (1945) 71 Cal. App. (2d) 455, 162 Pac. (2d) 939.

Reading this section in connection with §§ 165, 166, and 167, only police officers on active duty on January 8, 1932, would become members of the retirement system provided by the new charter, and previously retired officers would not. **Sunder v. Collins** (1933) 219 Cal. 430, 27 Pac. (2d) 382.

The provisions of this section prohibiting a retired person from serving in any elective or

appointive position does not apply to persons who are not members of the retirement system provided by the new charter but who were retired under the former charter. **Sunder v. Collins** (1933) 219 Cal. 430, 27 Pac. (2d) 382.

Reading § 163 in connection with this section, §§ 166 and 167, only police officers on active duty on January 8, 1932, would become members of the retirement system provided by the new charter, and previously retired officers would not. **Sunder v. Collins** (1933) 219 Cal. 430, 27 Pac. (2d) 382.

(8.507)* § 165. Miscellaneous Officers and Employees.

Since this section and § 165.2 both require employees to be members of the retirement system and there is no provision in either section permitting over-age persons to become members, such persons are not eligible for city employment under charter provisions alone. **Acton, Heil, Brooks v. Henderson** (Three cases) (1957) 150 Cal. App. (2d) 1, 309 Pac. (2d) 481.

The power conferred upon the board of supervisors by par. "a" of this section to include certain offices, departments, etc., within the retirement system includes, by implication, the power of exclusion. Exclusion of employees may be by classification. Where such employees have resigned from their positions, the section permits their reemployment. **Acton, Heil, Brooks v. Henderson** (Three cases) (1957)150 Cal. App. (2d) 1, 309 Pac. (2d) 481.

The provision of par. "a" of this section making retirement compulsory at age 70 is qualified by the discretion vested in the board of supervisors. **Acton, Heil, Brooks v. Henderson** (Three cases) (1957) 150 Cal. App. (2d) 1, 309 Pac. (2d) 481.

This section was not expressly or impliedly repealed by § 165.2; nor is there express repeal of par. "a" of this section by § 165.2, or necessary incompatability with it. The fact that § 165.2 sets up a different retirement system, with a different age as compulsory retirement should not be considered as an implied repeal of par. "a" of this section. **Acton, Heil, Brooks v. Henderson** (Three cases) (1957) 150 Cal. App. (2d) 1, 309 Pac. (2d) 481.

The definition of employees in § 165.2 was intended to be the same as the term is defined in this section and § 165.2 was intended to be subject to par. "a" of this section insofar as the power of the board of supervisors to determine who shall be member of the retirement system is concerned. **Acton, Heil, Brooks v. Henderson** (Three cases) (1957) 150 Cal. App. (2d) 1, 309 Pac. (2d) 481.

It is a possible and reasonable interpretation that § 165.2 affects all individuals who have not been made, constitutionally, a member of an exempt class under the power conferred by par. "a" of this section. **Acton, Heil, Brooks v. Henderson** (Three cases) (1957) 150 Cal. App. (2d) 1, 309 Pac. (2d) 481.

The compulsory retirement provisions of this section are made to apply to all civil service employees without regard to age at the time of entering service. **Palmer v. Wolff** (1948) 88 Cal. App. (2d) 979, 200 Pac. (2d) 167.

(8.509)* § 165.2 Retirement Miscellaneous Officers and Employees on and After July 1, 1947.

Under subsection F of this section, a city employee's accumulated retirement fund contributions are refundable to him if he ceases for any reason to be an employee before his pension is due. Consequently, where a Municipal Railway employee was suspended from his employment, made a written demand for refund of his contributions, and then filed an appeal seeking reinstatement to his position, but neglected to revoke his demand for refund or to notify the retirement system of his appeal and of his change of position, his contributions were "owing and unpaid" to him within the meaning of the statute permitting garnishment of monies owed to a person by a municipality (CCP § 710) and were hence subject to

garnishment. **McDaniel v. City and County of San Francisco** (1968) 259 Cal. App. (2d) 356, 66 Cal. Rptr. 384.

Since this section and § 165 both require employees to be members of the retirement system and there is no provision in either section permitting over-age persons to become members, such persons are not eligible for city employment under charter provisions alone. **Acton, Heil, Brooks v. jhenderson** (Three cases) (19577) 150 Cal. App. (2d) 1, 309 Pac. (2d) 481.

Section 165 was not expressly or impliedly repealed by this section; nor is there express repeal of par. "a" of § 165 by this section, or necessary incompatability with it. The fact that this section sets up a different retirement system, with a different age as to compulsory retirement should not be considered as an implied repeal of par. "a" of § 165. **Acton, Heil, Brooks v. Henderson** (Three cases) (1957) 150 Cal. App. (2d) 1, 309 Pac. (2d) 481.

The definition of employees in this section was intended to be the same as the term is defined in § 165, and this section was intended to be subject to par. "a" of § 165 insofar as the power of the board of supervisors to determine who shall be members of the retirement system is concerned. **Acton, Heil, Brooks v. Henderson** (Three cases) (1957) 150 Cal. App. (2d) 1, 309 Pac. (2d) 481.

It is a possible and reasonable interpretation that this section affects all individuals who have not been made, constitutionally, a member of an exempt class under the power conferred by par. "a" of § 165. **Acton, Heil, Brooks v. Henderson** (Three cases) (1957) 150 Cal. App. (2d) 1, 309 Pac. (2d) 481.

(8.540)* § 166. Members of the Police Department on January 8, 1932.

Where an officer dies as a result of a pre-existing disease of the heart and it is established that the disease has been aggravated and death accelerated or precipitated by exertion in performing the duties of his office, the case falls within the scope of this section and his widow is entitled to the benefits which it grants. **Naughton v. Retirement Board** (1941) 43 Cal. App. (2d) 254, 110 Pac. (2d) 714; **Buckley v. Roche** (1931) 214 Cal. 241, 4 Pac. (2d) 929.

Reading § 163 in connection with § 165 this section and § 167, only police officers on active duty on January 8, 1932, would become members of the retirement system provided by the new charter, and previously retired officers would not. **Sunder v. Collins** (1933) 219 Cal. 430, 27 Pac. (2d) 382.

(8.542)* § 167. Police Department, Retired Members and Beneficiaries on January 8, 1932.

Reading § 163 in connection with §§ 165, 166, and this section, only police officers on active duty on January 8, 1932, would become members of the retirement system provided by the new charter, and previously retired officers would not. **Sunder v. Collins** (1933) 219 Cal. 430, 27 Pac. (2d) 382.

(8.549)* § 168.1.5 Payment to Surviving Dependents.

On appeal from a judgment supporting the Retirement Board's determination that the widow of a member who had retired and was found to have a service-connected disability was entitled to a pension under this section rather than section 168.3, it was appellant's burden to show that the evidence and the reasonable inferences therefrom did not support the findings of the Board. On such appeal, respondent enjoys in its favor all inferences arising from conflicts in the evidence, even though an equally reasonable adverse inference is possible. Appellant, in other words, must not only show that a finding in her favor would have been supported, but must demonstrate that such finding is compelled as a matter of law. **Cooper v. Retirement Board of San Francisco** (1955) 131 Cal. App. (2d) 804, 281 Pac. (2d) 349.

In proceedings to compel payment of a widow's pension under section 168.3 rather than

under this section, for death of a retired member, the findings of the Retirement Board that the member did not die of injury received in, or illness caused by the performance of his duty and that the widow did not sustain her burden of proving that the member died as a result of injury received in or illness caused by performance of his duty, were sustained by the evidence where the member, a policeman who suffered a service-connected heart condition had attempted, after his retirement, to make an arrest, whereupon he was assaulted, and the medical testimony showed at most that in the legal sense the cause of his death was the over-exertion or excitement caused by the altercation. **Cooper v. Retirement Board of San Francisco** (1955) 131 Cal. App. (2d) 804, 281 Pac. (2d) 349.

(8.551)* § 168.1.6 Police Retirement — Adjustment of Allowances Because of Compensation Benefits.

This section provides that the portion of any allowance payable to a "person" because of a policeman's death resulting from injuries received in the performance of duty "shall be considered as in lieu of any benefits . . . payable to or on account of such persons (sic) under the (Workmen's Compensation Law.) This credit against death allowances is permissible only for payments on a workmen's compensation award to the same person who receives the death allowances; and hence where a widow had been receiving a death allowance, and she and her minor children subsequently applied for workmen's compensation benefits based on the policeman's injuries and death, the City and County is not entitled to credit the death allowances heretofore and currently being paid against the workmen's compensation awards it was required to pay to the minor children. **City and County of San Francisco v. Workmen's Compensation Appeals Board** (1969) 269 Cal. App. (2d) 382, 74 Cal. Rptr. 810.

A court is required to construe liberally the Charter in order to carry out the beneficial purposes of its pension provisions. **City and County of San Francisco v. Workmen's Compensation Appeals Board** (1969) 269 Cal. App. (2d) 382, 74 Cal. Rptr. 810.

The obvious purpose of the Charter is to provide a monthly living allowance to the widow of a police officer who dies in the line of duty. **City and County of San Francisco v. Workmen's Compensation Appeals Board** (1969) 269 Cal. App. (2d) 382, 74 Cal. Rptr. 810.

The retirement provisions of the Charter, including this section constitute part of the contract of employment between the City and County and its policemen. **City and County of San Francisco v. Workmen's Compensation Appeals Board** (1968) 267, ACA 856, 73 Cal. Rptr. 429.

The retirement provisions of the Charter, including this section, are not only the organic law of San Francisco, but are also the law of the state, with the force of legislative enactments. **City and County of San Francisco v. Workmen's Compensation Appeals Board** (1968) 267 ACA 856, 73 Cal. Rptr. 429.

Under appropriate charter provisions, a municipality has broad power to prevent double disability payments to the same person; the order in which the respective payments, awards, or allowances are payable is immaterial. **City and County of San Francisco v. Workmen's Compensation Appeals Board** (1968) 267, ACA 856, 73 Cal. Rptr. 429.

Where a disability award and a city pension are payable concurrently, one may be offset or credited against the other to the end that total payments shall not exceed the stipulated monthly pension. **City and County of San Francisco v. Workmen's Compensation Appeals Board** (1968) 267, ACA 856. 73 Cal. Rptr. 429.

The Charter should be construed, if reasonably possible, to avoid double liability to the City and County for one disability injury to one employee. **City and County of San Francisco v. Workmen's Compensation Appeals Board** (1968) 267, ACA 856, 73 Cal. Rptr. 429.

The first sentence of this section is construed to provide for offsetting against a retired policeman's disability allowance, workmen's compensation payments previously made because of the injury that brought about his later retirement; and this section permits the Board of Supervisors to fix the manner in which the retirement allowance may be reduced. **City and County of San Francisco v. Workmen's Compensation Appeals Board** (1968) 267, ACA 856, 73 Cal. Rptr. 429.

Under the second sentence of this section, the City and County is entitled to credit a policeman's disability retirement allowance against a workmen's compensation award given for the same injury subsequent to retirement. **City and County of San Francisco v. Workmen's Compensation Appeals Board** (1968) 267, ACA 856, 73 Cal. Rptr. 429. Cal App. (2d) 771

Under this section, credit against death allowances paid by the City and County is permissible only for payments on a workmen's compensation award made to the same person who receives the death allowances. **City and County of San Francisco v. Workmen's Compensation Appeals Board** (1968) (Rehearing granted) 267 ACA 721, 73 Cal. Rptr. 418.

The Charter must be liberally construed in order to carry out the beneficial purposes of its pension provisions. **City and County of San Francisco v. Workmen's Compensation Appeals Board** (1968) (rehearing granted) 267 ACA 721, 73 Cal. Rptr. 418.

The purpose of Charter pension provisions is to provide a monthly living allowance to the widow of a police officer who dies in the line of duty; this section cannot be construed so as to deprive the widow of this living allowance until such time as the payments she would otherwise have received equal the amount of a workmen's compensation award paid to third persons. **City and County of San Francisco v. Workmen's Compensation Appeals Board** (1968) (Rehearing granted) 267 ACA 721, 73 Cal. Rptr. 418.

(8.561)* § 168.3. Pension Provisions—Dependents of Members of Fire and Police Departments Killed in Line of Duty.

On appeal from a judgment supporting the Retirement Board's determination that the widow of a member who had retired and was found to have a service-connected disability was entitled to a pension under section 168.1.5 rather than under this section, it was appellant's burden to show that the evidence and the reasonable inferences therefrom did not support the findings of the Board. On such appeal, respondent enjoys in its favor all inferences arising from conflicts in the evidence, even though an equally reasonable adverse inference is possible. Appellant, in other words, must not only show that a finding in her favor would have been supported, but must demonstrate that such finding is compelled as a matter of law. **Cooper v. Retirement Board of San Francisco** (1955) 131 Cal. App. (2d) 804, 281 Pac. (2d) 349.

In proceedings to compel payment of a widow's pension under this section, rather than under section 168.1.5, for death of a retired member the findings of the Retirement Board that the member did not die of injury received in, or illness caused by the performance of his duty and that the widow did not sustain her burden of proving that the member died as a result of injury received in, or illness caused by performance of his duty, were sustained by the evidence where the member, a policeman who suffered a service-connected heart condition had attempted, after his retirement, to make an arrest, whereupon he was assaulted, and the medical testimony showed at most that in the legal sense the cause of his death was the over-exertion or excitement caused by the altercation. **Cooper v. Retirement Board of San Francisco** (1955) 131 Cal. App. (2d) 804, 281 Pac, (2d) 349.

The purpose of this section was to enlarge the rights of widows of firemen killed in line of duty. **Carey v. Retirement Board of San Francisco** (1955) 131 Cal. App. (2d) 739, 281 Pac. (2d) 25 (overruled in So. Cal. (2d) 438, 453, 326 Pac. (2d) 484).

The phrase "in lieu of," as used in this section means "instead of," "in place of," "in

substitution for." This section impliedly repeals section 169(b), therefore, and provides the sole method of compensation for widows of firemen who die from injuries received in line of duty. **Carey v. Retirement Board of San Francisco** (1955) 131 Cal. App. (2d) 739, 281 Pac. (2d) 25 (overruled in So. Cal. (2d) 438, 453, 326 Pac. (2d) 484).

CUMULATIVE DIGEST
OF
CALIFORNIA SUPREME
AND
APPELLATE COURT
DECISIONS

1972

CUMULATIVE DIGEST

(1.101)* § 2. Powers of the City and County.

Under the provision that "The city and county may make and enforce all laws, ordinances and regulations necessary, convenient or incidental to the exercise of all rights and powers in respect to its affairs, . . . " initiative legislation which may be adopted by a chartered city is limited to "municipal affairs." The latter term, as used in the California Constitution, refers "to the internal business affairs of a municipality." **Farley v. Healey** (1967) (dissent) 67 Cal. (2d) 325, 431 Pac. (2d) 650, 61 Cal. Rptr. 20.

(9.100)* § 5. Elective Officers in Terms.

The provision in this section requiring automatic forfeiture of the position of any appointive city and county employee who becomes a candidate for election to any public office is unconstitutional in its entirety for overbreadth, which cannot be eliminated by the severance of any language, since the provision relates alike to all public offices, whether they be partisan or nonpartisan in character and whether they be San Francisco offices or national or state offices, and there is shown no compelling need to restrict the fundamental right involved on such a sweeping scale. **Kinnear v. San Francisco** (1964) 61 Cal. (2d) 341, 392 Pac. (2d) 391, 38 Cal. Rptr. 631. See corrective measure—Provision amended and renumbered.

(8.100)* § 7. Qualifications of Officers and Employees.

Cited in **Hallinan v. Mellon** (1963) 218 Cal. App. (2d) 342, 32 Cal. Rptr. 446.

(3.500)* § 19. Powers and Duties of Boards and Commissions.

When the approval of two-thirds of the Board of Supervisors is required on any provision, two-thirds of all the members of the Board, whether absent or present at the particular meeting, must approve the measure. **San Francisco v. Western Air Lines, Inc.** (1962) 204 Cal. App. (2d) 105, 33 Cal. Rptr. 216.

(3.501)* § 20. Powers and Duties of Department Heads.

Cited in **Martinez v. Cahill** (1963) 215 Cal. App. (2d) 823, 30 Cal. Rptr. 566.

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*The number in parentheses preceding the old section number is in accord with the 1971 recodification of the Charter.

(3.101)* § 22. Non-interference in Administrative Affairs.

This section prohibits direct dealing by the mayor with individual policemen, thus the mayor cannot be personally liable for the negligent acts or omissions of individual policemen. Martinez v. Cahill (1963) 215 Cal. App. (2d) 823, 30 Cal. Rptr. 566.

(3.537)* § 24. Permits and Inspections.

Under §§ 24 and 35.6 and the implementing municipal ordinances, the power with respect to the issuance, refusal and revocation of permits for businesses such as that of a pawnbroker is initially vested in the chief of police. These provisions set an overall standard governing and guiding the chief of police and prescribing that the exercise of his permit power must not be arbitary but rather directed to the promotion of the public interest, and in the regulation of the business of a pawnbroker, specific standards are not necessary. Iscoff v. Police Commission (1963) 222 Cal. App. (2d) 395, 35 Cal. Rptr. 189.

Cited in San Francisco v. Superior Court (1959) 53 Cal. (2d) 236, 347 Pac. (2d) 294, 1 Cal. Rptr. 158.

(3.530)* § 35. Police Department.

Although the police commission and the chief of police are compenents of the police department, they are not in themselves identical. Iscoff v. Police Commission (1963) 222 Cal. App. (2d) 395, 35 Cal. Rptr. 189.

Cited in Martinez v. Cahill (1963) 215 Cal. App. (2d) 823, 30 Cal. Rptr. 566.

(3.532)* § 35.1. Police Department.

Cited in Martinez v. Cahill (1963) 215 Cal. App. (2d) 823, 30 Cal. Rptr. 566.

(3.534)* § 35.3. Police Department.

See Martinez v. Cahill (1963) 215 Cal. App. (2d) 823, 30 Cal. Rptr. 566 citing section 35.1.

(3.531)* § 35.5. Departments Under Mayor—Police Department.

Cited in Hegarty v. Sohr (1961) 190 Cal. App. (2d) 509, 12 Cal. Rptr. 210.

*The number in parentheses preceding the old section number is in accord with the 1971 recodification of the Charter.

(8.405)* § 35.5.1. Departments Under Mayor–Police Department.

Longevity pay rates of Los Angeles which were not automatic but were contingent upon certification that one's standard of service was satisfactory and were declared to be a privilege earned by merit and not a right were not a "basic amount of wages" as the term is used in the governing definition of "rates of compensation" expressed in this section. Hegarty v. Sohr (1961) 190 Cal. App. (2d) 509, 12 Cal. Rptr. 210.

(3.537)* § 35.6. Police Department.

Under §§ 24 and 35.6 and the implementing municipal ordinances, the power with respect to the issuance, refusal and revocation of permits for businesses such as that of a pawnbroker is initially vested in the chief of police. These provisions set an overall standard governing and guiding the chief of police and prescribing that the exercise of his permit power must not be arbitrary but rather directed to the promotion of the public interest, and in the regulation of the business of a pawnbroker, specific standards are not necessary. Iscoff v. Police Commission (1963) 222 Cal. App. (2d) 395, 35 Cal. Rptr. 189.

(8.405)* § 36.2 Departments Under Mayor–Fire Department.

Longevity pay rates of Los Angeles which were not automatic but were contingent upon certification that one's standard of service was satisfactory and were declared to be a privilege earned by merit and not a right were not a "basic amount of wages" as the term is used in the governing definition of "rates of compensation" expressed in this section. Hegarty v. Sohr (1961) 190 Cal. App. (2d) 509, 12 Cal. Rptr. 210.

(3.651)* § 39. Board of Permit Appeals.

Failure to invoke and exhaust the administrative remedy of appeal under this section and § 24 to the Board of Permit Appeals constitutes a bar to judicial relief. Lynn v. Duckel (1956) 46 Cal. (2d) 845, 299 Pac. (2d) 236.

By ignoring the permit procedure established by this section and § 24 and building a roadway without permit, then suing the Director of Public Works for mandatory injunction for removal of city's obstruction to the roadway, a property owner attempts to nullify the

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procedure established by law, to the injury of the public, and does not come into court with "clean hands." Lynn v. Duckel (1956) 46 Cal. (2d) 845, 299 Pac. (2d) 236.

The Board of Permit Appeals is empowered to exercise full discretion in passing upon matters submitted to it; it is free to draw its own conclusions from the conflicting evidence before it and affirm or overrule the issuance of permits. San Francisco v. Superior Court (1959) 53 Cal. (2d) 236, 347 Pac. (2d) 294, 1 Cal. Rptr. 158.

Action of the Board of Permit Appeals involving issuance of a permit for an apartment building was not unconstitutional because unguided by adequate standards; the Charter and ordinances of the city fully prescribe the conditions which must be met by those who would construct apartment dwellings and specify the procedures to be followed by those who would secure permits. These conditions and procedures are the standards which must govern the appropriate administrative agencies. San Francisco v. Superior Court (1959) 53 Cal. (2d) 236, 347 Pac. (2d) 294, 1 Cal. Rptr. 158.

Where the Board of Permit Appeals, in considering an application for an apartment building, held a full hearing, viewed the site, and made its independent order, such order raised the presumption that the existence of the necessary facts, based on the standards as prescribed by the Charter and applicable ordinances, interpreted and administered to promote public health, safety, comfort, convenience, and general welfare, had been ascertained and found. Its action could not be successfully attacked on the ground that such standards were lacking. San Francisco v. Superior Court (1959) 53 Cal. (2d) 236, 347 Pac. (2d) 294, 1 Cal. Rptr. 158.

Where the Board of Permit Appeals, acting under this section, held full hearings and received expert testimony, a presumption arose that the existence of facts necessary to support its conclusions had been ascertained and found. The Board did not act beyond its jurisdiction or abuse its discretion in ruling upon a decision of the Central Permit Bureau. Board of Permit Appeals v. Central Permit Bureau (1960) 186 Cal. App. (2d) 633, 9 Cal. Rptr. 83.

It is well settled that the San Francisco Board of Permit Appeals is an administrative tribunal invested by the city's charter and implementing municipal ordinances with the power to hear and determine the entire controversy before it as to whether or not a permit should be issued, to draw its own conclusions from the conflicting evidence before it, and in the exercise of its own independent judgment to affirm or overrule the action of the official exercising permit power

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at the primary level. Iscoff v. Police Commission (1963) 222 Cal. App. (2d) 395, 35 Cal. Rptr. 189.

In reviewing a pawnbroker's application to transfer his permit to a new location, the board of permit appeals is entitled to consider the effect of the proposed business on the surrounding property and its inhabitants. Iscoff v. Police Commission (1963) 222 Cal. App. (2d) 395, 35 Cal. Rptr. 189.

This section has no bearing on the matter of the board's role and power in granting or denying zoning variances. Cow Hollow Improvement Club v. Board of Permit Appeals (1966) 245 Cal. App. (2d) 160, 53 Cal. Rptr. 610.

Neither the Charter, nor the Municipal Code provides for findings of fact or law by the Central Permit Bureau. Russian Hill Improvement Association v. Board of Permit Appeals (1967) 66 Cal. (2d) 34, 423 Pac. (2d) 824, 56 Cal. Rptr. 672.

Even after a permit has been lawfully issued by the Central Permit Bureau, the Board of Permit Appeals retains discretionary power to order that the permit be denied, because of a pending change in the law. Russian Hill Improvement Association v. Board of Permit Appeals (1967) 66 Cal. (2d) 34, 423 Pac. (2d) 824, 56 Cal. Rptr. 672.

This section and related provisions of the Municipal Code do not use the words "issue" and "grant" interchangeably; "issuance" describes the initial departmental action which is reviewed by the Board of Permit Appeals, and "granting" refers to the final disposition of the matter pursuant to the Board's orders. Russian Hill Improvement Association v. Board of Permit Appeals (1967) 66 Cal. (2d) 34, 423 Pac. (2d) 824, 56 Cal. Rptr. 672.

See also Chas. L. Harney, Inc. v. Board of Permit Appeals (1961) 1965 Cal. App. (2d) 442, 15 Cal. Rptr. 870.

Cited in Broadway etc. Association v. Board of Permit Appeals (1966) 246 ACA 29, 54 Cal. Rptr. 562.

(3.601)* § 46. Art Commission–Powers and Duties.

Where an art project was a cooperative project of the city and a federal agency, the art commission's resolution accepting the art work on dissolution of the federal project was a mere formality rather than a purposeful and unlawful exercise of dominion over privately-owned items mistakenly included in the transaction, and their receipt by the city did not constitute conversion so as to start

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the running of the statute of limitations at that time; nor did the resolution constitute notice to the owner of conversion where there was no evidence that the owner knew of the resolution. **Buffano v. City and County of San Francisco** (1965) 233 Cal. App. (2d) 61, 43 Cal. Rptr. 223.

(3.622)* § 50. California Palace of the Legion of Honor.

The obvious cultural and administrative requirements of the position of museum director provide legitimate basis for employment classification for the purpose of an ordinance excluding a director from the retirement system upon reappointment after resignation. **Acton, Heil, Brooks v. Henderson** (Three cases) (1957) 150 Cal. App. (2) 1, 309 Pac. (2d) 481.

(3.632)* § 51. M. H. de Young Memorial Museum.

The obvious cultural and administrative requirements of the position of museum director provide legitimate basis for employment classification for the purpose of an ordinance excluding a director from the retirement system upon reappointment after resignation. **Acton, Heil, Brooks v. Henderson** (Three cases) (1957) 150 Cal. App. (2d) 1, 309 Pac. (2d) 481.

(3.640)* § 52. California Academy of Sciences.

The obvious cultural and administrative requirements of the position of museum director provide legitimate basis for employment classification for the purpose of an ordinance excluding a director from the retirement system upon reappointment after resignation. **Acton, Heil, Brooks v. Henderson** (Three cases) (1957) 150 Cal. App. (2d) 1, 309 Pac. (2d) 481.

(3.301)* § 64. General Powers and Duties of Controller.

This section was not violated by the city in its agreements in connection with establishing an off-street parking facility. **Larsen v. City and County of San Francisco** (1957) 152 Cal. App. (2d) 355, 313 Pac. (2d) 959.

(6.205)* § 72. Adoption of the Budget and the Appropriation Ordinance.

This section was not violated by the city in its agreements in

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connection with establishing an off-street parking facility. Larsen v. City and County of San Francisco (1957) 152 Cal. App. (2d) 355, 313 Pac. (2d) 959.

(6.311)* § 82. Receipt, Custody and Deposit of Funds, Investment of Trust Funds.

This section was not violated by the city in its agreement in connection with establishing an off-street parking facility. Larsen v. City and County of San Francisco (1957) 152 Cal. App. (2d) 355, 313 Pac. (2d) 959.

(6.303)* § 85. Expenditures and Payment of Claims.

Cited in Flora Crane Service, Inc. v. Ross (1964) 61 Cal. (2d) 199, 390 Pac. (2d) 193, 37 Cal. Rptr. 425.

(6.302)* § 86. Limitation on Incurrence of Liability.

The second paragraph of this section imposes a correlative duty to that set out therein on the controller, by virtue of his office, to determine whether the necessary funds are available to carry out the proposed expenditure and, if so, to make the appropriate certification. Flora Crane Service, Inc. v. Ross (1964) 61 Cal. (2d) 199, 390 Pac. (2d) 193, 37 Cal. Rptr. 425.

Under this section the controller cannot make certification until the precise amount of the city's proposed contract is established, but thereafter he has a clear ministerial duty to determine whether the necessary funds are available, and, if they are, to so certify. Flora Crane Service, Inc. v. Ross (1964) 61 Cal. (2d) 199, 390 Pac. (2d) 193, 37 Cal. Rptr. 425.

Under this section the controller has an affirmative duty to make certification after the city's contract is established without a specific request by the contract's obligee. Flora Crane Service, Inc. v. Ross (1964) 61 Cal. (2d) 199, 390 Pac. (2d) 193, 37 Cal. Rptr. 425.

To compel certification by the controller of an appropriation for a contract after it has been performed does not defeat or impair the requirement of this section that the certification be before the obligation is incurred or authorized so as to open the door to fraudulent imposition of contractual liabilities on the city, where there is a valid appropriation for the expenditure and unencumbered funds are available to pay it. Flora Crane Service, Inc. v. Ross (1964) 61 Cal. (2d) 199, 390 Pac. (2d) 193, 37 Cal. Rptr. 425.

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(7.703)* § 87. Limitation on Claims and Damages.

In a personal injury action, the city was not estopped from asserting the defense of noncompliance with this section where there was no finding that the oral notice given to a city employee contained the necessary information for the city to investigate the matter and where the record implied a lack of reliance by the injured plaintiff on the city employee's statement that a delayed filing of a claim would be "all right." Howard v. San Francisco (1962) 205 Cal. App. (2d) 602, 23 Cal. Rptr. 183.

(7.402)* § 93. Lease of City Property.

Cited in San Francisco v. Western Air Lines, Inc. (1962) 204 Cal. App. (2d) 105, 22 Cal. Rptr. 216.

(7.601)* § 108. Repair of Accepted Streets.

Sections 202(c), 203(a), and 205(c) of the Standard Specifications of the Bureau of Engineering, Department of Public Works, should not be read in conjunction with this section; there is no retroactive mandatory duty on the part of the City and County to have curbs throughout the City six inches in height. Curreri v. City and County of San Francisco (1968) 262 ACA 657, 69 Cal. Rptr. 20.

Failure to provide curbs on Greenwich Street six inches in height cannot be interpreted as negligence as a matter of law. Curreri v. City and County of San Francisco (1968) 261 ACA 657, 69 Cal. Rptr. 20.

(7.503)* § 117.3. Variances.

The initial determination as to whether a zoning variance should be granted or denied is vested in the zoning administrator, who is empowered to grant a variance only on finding that the conditions of this section and § 302(d) of the City Planning Code are satisfied. Cow Hollow Improvement Club v. Board of Permit Appeals (1966) 245 Cal. App. (2d) 160, 53 Cal. Rptr. 610.

A determination by the zoning administrator that the conditions for granting a zoning variance are satisfied is not final where an appeal is taken to the board of permit appeals. Cow Hollow Improvement Club v. Board of Permit Appeals (1966) 245 Cal. App. (2d) 160, 53 Cal. Rptr. 610.

Upon the taking of an appeal from the zoning administrator to the board of permit appeals, the board is not bound by the administra-

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tor's findings or his decision; hence the board is invested with complete power to hear and determine the entire controversy before it and to draw its own conclusions from conflicting evidence before it and, in the exercise of its independent judgment, to affirm, modify, or overrule the administrator's action. Cow Hollow Improvement Club v. Board of Permit Appeals (1966) 245 Cal. App. (2d) 160, 53 Cal. Rptr. 610.

The board's role and power in granting or denying zoning variances are governed exclusively by this section and by Section 303 of the City Planning Code. Cow Hollow Improvement Club v. Board of Permit Appeals (1966) 245 Cal. App. (2d) 160, 53 Cal. Rptr. 610.

Cited in Russian Hill Improvement Association v. Board of Permit Appeals (1967) 66 Cal. (2d) 34, 423 Pac. (2d) 824, 56 Cal. Rptr. 672.

(3.599)* § 119. Public Utility Policy.

Cited in Market Street Railway Company v. California State Board of Equalization (1956) 137 Cal. App. (2d) 87, 290 Pac. (2d) 20.

(no sec.)* § 119.1. Extension of Municipal Railway by Unification with Market Street Railway.

Cited in Market Street Railway Company v. California State Board of Equalization (1956) 137 Cal. App. (2d) 87, 290 Pac. (2d) 20.

(3.590)* § 120. Public Utilities Commission.

A reading of this section in conjunction with §§ 121, 122 and 125 shows that the charter intended to designate and establish the airport as a public utility. San Francisco v. Western Air Lines, Inc. (1962) 204 Cal. App. (2d) 105, 22 Cal. Rptr. 216.

(3.591)* § 121. Public Utilities Commission—General Powers and Duties of Commission.

A reading of this section in conjunction with §§ 120, 122 and 125 shows that the charter intended to designate and establish the airport as a public utility. San Francisco v. Western Air Lines, Inc. (1962) 204 Cal. App. (2d) 105, 22 Cal. Rptr. 216.

(3.592)* § 122. Public Utilities Commission—Utility Departments and Bureaus.

A reading of this section in conjunction with §§ 120, 121 and 125

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shows that the charter intended to designate and establish the airport as a public utility. San Francisco v. Western Air Lines, Inc. (1962) 204 Cal. App. (2d) 105, 22 Cal. Rptr. 216.

(7.404)* § 123. Referendum on Any Lease or Sale of Public Property.

An off-street parking facility is not a public utility within the meaning of this section. Larsen v. City and County of San Francisco (1957) 152 Cal. App. (2d) 355, 313 Pac. (2d) 959.

Cited in San Francisco v. Western Air Lines, Inc. (1962) 204 Cal. App. (2d) 105, 22 Cal. Rptr. 216.

(no sec.)* § 125. Public Utilities Commission–Employments.

A reading of this section in conjunction with §§ 120, 121 and 122 shows that the charter intended to designate and establish the airport as a public utility. San Francisco v. Western Air Lines, Inc. (1962) 204 Cal. App. (2d) 105, 22 Cal. Rptr. 216.

(3.598)* § 130. Public Utilities Commission–Rates.

This section is permissive in character. It does not demand that all users of facilities be charged equal rates, nor does it proscribe unequal rates or even give definition to the terms employed. San Francisco v. Western Air Lines, Inc. (1962) 204 Cal. App. (2d) 105, 22 Cal. Rptr. 216.

(3.660)* § 140. Civil Service Commission.

Cited in Murphy v. Walsh (1958) 158 Cal. App. (2d) 675, 323 Pac. (2d) 206.

(3.661)* § 141. Powers and Duties.

The rules of the Civil Service Commission made under the powers given in this section have the force and effect of law so long as they are reasonable and within the fundamental provisions of the Charter. Murphy v. Walsh (1958) 158 Cal. App. (2d) 675, 323 Pac. (2d) 206.

The provision that "the allocation or re-allocation of a position shall not adversely affect the civil service rights of an occupant regularly holding such position" includes the right of an incumbent to retain the same schedule of compensation following reclassification of his position that he had before; and where the commission

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and the board of supervisors reclassified the position of probation officer and created two new positions, the rights of incumbents not qualified for the higher of the two new positions were not impaired where they were retained in their old position and at their old rate of pay. **Forstner v. City and County of San Francisco** (1966) 239 Cal. App. (2d) 516, 48 Cal. Rptr. 805.

There is no conflict between the provision that "the allocation or reallocation of a position shall not adversely affect the civil service rights of an occupant regularly holding such position" and the provision of Section 151 that "like compensation shall be paid for like service, based upon the classification as provided in section 141"; the latter provision is applied except where compliance therewith would adversely affect the salary and other civil service rights of incumbents regularly employed by the city. **Forstner v. City and County of San Francisco** (1966) 239 Cal. App. (2d) 516, 48 Cal. Rptr. 805.

Cited in **Matthews v. Civil Service Commission** (1958) 158 Cal. App. (2d) 169, 322 Pac. (2d) 234.

Cited in **McGill v. San Francisco** (1964) 231 Cal. App. (2d) 35, 41 Cal. Rptr. 568.

(8.320, 8.321)* § 145. Qualifications and Tests.

Cited in **Murphy v. Walsh** (1958) 158 Cal. App. (2d) 675, 323 Pac. (2d) 206.

Cited in **Puckett v. San Francisco** (1962) 208 Cal. App. (2d) 471, 25 Cal. Rptr. 276.

(8.331)* § 145.1 Limited Tenure Appointments.

The provision in this section that dismissal of limited tenure employees shall be "with the approval of the Civil Service Commission" is plain in its terms and means that an appointing officer may not terminate the employment of a limited tenure employee without the approval of the Commission; it cannot be read to mean "without the approval of the Civil Service Commission if a court finds that the appointing officer had good cause." **McGill v. San Francisco** (1964) 231 Cal. App. (2d) 35, 41 Cal. Rptr. 568.

This section, which requires approval of an act by an officer, presumptively includes the right to disapprove. **McGill v. San Francisco** (1964) 231 Cal. App. (2d) 35, 41, Cal. Rptr. 568.

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(8.326)* § 146. Promotions.

This section does not place a limit on the kind of question or problem that can be propounded. It must pertain to matters concerning the duties of the department for which the examination is held. Murphy v. Walsh (1958) 158 Cal. App. (2d) 675, 323 Pac. (2d) 206.

Under the requirements of this section as to the subject matter of tests, the Civil Service Commission did not abuse its discretion in requiring the applicant to prepare a radio script where the subject matter of the script pertained to the duties of the position to be filled. Murphy v. Walsh (1958) 158 Cal. App. (2d) 675, 323 Pac. (2d) 206.

(8.329, 8.340)* § 148. Civil Service–Requisition, Certification and Appointment.

When substantial evidence of the unfitness of a probationary policeman, concerning his conduct prior to appointment, becomes known to the police chief and this evidence was not made available to or considered by the civil service commission at the time it placed the candidate on the eligible list, the police chief has the discretion to act on such evidence by terminating the appointment. Puckett v. San Francisco (1962) 208 Cal. App.(2d) 471, 25 Cal. Rptr. 276.

Cited in Martinez v. Cahill (1963) 215 Cal. App. (2d) 823, 30 Cal. Rptr. 566.

(8.400)* § 151. Standardization of Compensation.

Where the civil service commission certified a contract rate in March, 1955, as required under § 151.3, and in June discovered a change in conditions placing the employees under § 151, rather than in § 151.3, it was too late to proceed under § 151 for that year because of the provision that the Board of Supervisors must adopt salary schedules not later than April 1. Miller v. San Francisco (1959) 174 Cal. App. (2d) 109, 344 Pac. (2d) 102.

The provision that "like compensation shall be paid for like service, based upon the classification as provided in section 141 of the charter," is not in conflict with the provision of section 141 that "the allocation or re-allocation of a position shall not adversely affect the civil service rights of an occupant regularly holding such position." The latter provision is applied in all cases except where compliance therewith would adversely affect the salary and other

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civil service rights of incumbents regularly employed by the city. Forstner v. City and County of San Francisco (1966) 239 Cal. App. (2d) 516, 48 Cal. Rptr. 805.

(8.403)* § 151.3. Standardization of Compensation.

The purpose of this section is to provide a standard for determining pay rates that will insure city civil service employees a wage scale commensurate with wages received by workers in the same field in private industry. Thomlinson v. San Francisco (1964) 227 Cal. App. (2d) 619, 38 Cal. Rptr. 863.

The provision in this section calling for review of collective bargaining agreements in private industry as of July 1 and for the certification on or before the second Monday of July of any modification of rates established thereunder is to insure that rates of pay for city and county employees established by such private industry agreements for the new fiscal year shall be those actually prevailing on July 1. Thomlinson v. San Francisco (1964) 227 Cal. App. (2d) 619, 38 Cal. Rptr. 863.

Though the provision of San Francisco Charter, § 151.3, making the wage rates of groups or crafts in private employment the standard for setting wage rates for groups or crafts employed by the city, protects civil service employees covered by it as to modifications of rates of pay in private industry between April 1 and July 1 of any year, the basic purpose of the section predominates, that is, that the employee shall be entitled to the rate of pay generally prevailing in private employment in San Francisco on July 1, whether that be more or less than that prevailing on or prior to April 1. Thomlinson v. San Francisco (1964) 227 Cal. App. (2d) 619, 38 Cal. Rptr. 863.

Under this section the civil service commission is required to certify the rate of pay generally prevailing in private employment in San Francisco to establish the wage scale for city and county employees and has the implied power to correct any error in certifying inapplicable rates. Thomlinson v. San Francisco (1964) 227 Cal. App. (2d) 619, 38 Cal. Rptr. 863.

This section must be applied in a manner which is consonant with its objective and also fair and just, not only to the employees involved, but also to the general public. Thomlinson v. San Francisco (1964) 227 Cal. App. (2d) 619, 38 Cal. Rptr. 863.

Cited in Estes v. City of Richmond (1967) 249 Cal. App. (2d) 538, 57 Cal. Rptr. 536.

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(8.440)* § 151.5. Vacations for Per Diem Workers.

This section by its express terms provides that it shall have some retroactive application, and hence vacation pay is properly granted to city employees who left the city service shortly prior to passage of this section. Boyer v. County of Contra Costa (1965) 235 Cal. App. (2d) 111, 45 Cal. Rptr. 58.

(8.341)* § 154. Suspension and Dismissal for Cause.

The first sentence of this section, providing that a civil service employee shall not be removed or discharged "except for cause," is interpreted to mean that any reasonable, sufficient cause may be grounds for dismissal by the appointing officer. Whoriskey v. San Francisco (1963) 213 Cal. App. (2d) 400, 28 Cal. Rptr. 833.

The general power of the appointing officer to discharge is not limited by the specified grounds that apply when charges are filed by one other than the appointing officer. The appointing officer has a wide discretion in determining the fitness of an employee to continue performing the duties required by his employment. Whoriskey v. San Francisco (1963) 213 Cal. App. (2d) 400, 28 Cal. Rptr. 833.

The term "for cause" implies the existence of some fact that would constitute reasonable cause of removal; and in deciding whether the removal of a permanent employee was reasonable, the appellate court looks to the findings of the civil service commission rather than to the findings of the superior court that acted as the reviewing tribunal. Forstner v. City and County of San Francisco (1966) 243 Cal. App. (2d) 625, 52 Cal. Rptr. 621.

Insubordination by a civil service employee can be rightfully predicated only on a refusal to obey an order that a superior officer is entitled to give and to have obeyed, and the order must reasonably be related to the employee's duties. Forstner v. City and County of San Francisco (1966) 243 Cal. App. (2d) 625, 52 Cal. Rptr. 621.

(8.343)* § 155. Fire and Police Disciplinary Procedure.

Former section cited: power of removal or suspension in police commission only. Martinez v. Cahill (1963) 215 Cal. App. (2d) 823, 30 Cal. Rptr. 566.

This section clearly provides authority in the fire chief to suspend without a prior hearing and affords ample protection of all the

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members' constitutional rights. Apostoli v. City and County of San Francisco (1969) 268 ACA 786.

The statutory power of the fire chief to suspend without a prior hearing is not without restraint; the suspended member has the right to appeal to the Fire Commission, and this appeal contemplates a full hearing with the right of a member to appear with counsel, to have a public trial, and to secure the attendance of witnesses for his defense. Apostoli v. City and County of San Francisco (1969) 268 ACA 786.

Where a fire department member suspended, by the fire chief appeals to the Fire Commission, the commission has the power to reverse or alter the finding of the chief, and in case of reversal may in its discretion order that the member affected be paid salary for the period of suspension.Apostoli v. City and County of San Francisco (1969) 268 ACA 786.

The formalities of this section and of Section 4403 of the Rules and Regulations of the Fire Department, relating to suspension by the fire chief without a hearing, are complied with by the delivery to the member of a copy of the City's investigating report on which the suspension was based. Apostoli v. City and County of San Francisco (1969) 268 ACA 786.

(8.501)* § 158.1. Retirement of Elective Officers.

Cited in Carey v. Retirement Board of San Francisco (1955) 131 Cal. App. (2d) 739, 281 Pac. (2d) 25.

(8.502)* § 158.2. Retirement of Elective Officers (continued).

Cited in Carey v. Retirement Board of San Francisco (1955) 131 Cal. App. (2d) 739, 281 Pac. (2d) 25.

(8.503)* § 158.3. Retirement—Court Employees and Attaches.

Cited in Carey v. Retirement Board of San Francisco (1955) 131 Cal. App. (2d) 739, 281 Pac. (2d) 25.

(no sec.)* § 162. Definition, Members of Fire and Police Departments.

This section was intended to exclude from § 169 pension coverage all marine engineers who were not required to meet the 35-year age limitation prescribed for regular members of the fire department. Carrick v. San Francisco (1962) 202 Cal. App. (2d) 402, 20 Cal. Rptr. 878.

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(8.507)* § 165. Miscellaneous Officers and Employees.

Since this section and § 165.2 both require employees to be members of the retirement system and there is no provision in either section permitting over-age persons to become members, such persons are not eligible for city employment under charter provisions alone. **Acton, Heil, Brooks v. Henderson** (Three cases) (1957) 150 Cal. App. (2d) 1, 309 Pac. (2d) 481.

The power conferred upon the board of supervisors by par. "a" of this section to include certain offices, departments, etc., within the retirement system includes, by implication, the power of exclusion. Exclusion of employees may be by classification. Where such employees have resigned from their positions, the section permits their reemployment. **Acton, Heil, Brooks v. Henderson** (Three cases) (1957) 150 Cal. App. (2d) 1, 309 Pac. (2d) 481.

The provision of par. "a" of this section making retirement compulsory at age 70 is qualified by the discretion vested in the board of supervisors. **Acton, Heil, Brooks v. Henderson** (Three cases) (1957) 150 Cal. App. (2d) 1, 309 Pac. (2d) 481.

This section was not expressly or impliedly repealed by § 165.2; nor is there express repeal of par. "a" of this section by § 165.2, or necessary incompatability with it. The fact that § 165.2 sets up a different retirement system, with a different age as compulsory retirement should not be considered as an implied repeal of par. "a" of this section. **Acton, Heil, Brooks v. Henderson** (Three cases) (1957) 150 Cal. App. (2d) 1, 309 Pac. (2d) 481.

The definition of employees in § 165.2 was intended to be the same as the term is defined in this section and § 165.2 was intended to be subject to par. "a" of this section insofar as the power of the board of supervisors to determine who shall be member of the retirement system is concerned. **Acton, Heil, Brooks v. Henderson** (Three cases) (1957) 150 Cal. App. (2d) 1, 309 Pac. (2d) 481.

It is a possible and reasonable interpretation that § 165.2 affects all individuals who have not been made, constitutionally, a member of an exempt class under the power conferred by par. "a" of this section. **Acton, Heil, Brooks v. Henderson** (Three cases) (1957) 150 Cal. App. (2d) 1, 309 Pac. (2d) 481.

Cited in **Carrick v. San Francisco** (1962) 202 Cal. App. (2d) 402, 20 Cal. Rptr. 878.

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(8.509)* § 165.2. Retirement–Miscellaneous Officers and Employees On and After July 1, 1947.

Since this section and § 165 both require employees to be members of the retirement system and there is no provision in either section permitting over-age persons to become members, such persons are not eligible for city employment under charter provisions alone. Acton, Heil, Brooks v. Henderson (Three cases) (1957) 150 Cal. App. (2d) 1, 309 Pac. (2d) 481.

Section 165 was not expressly or impliedly repealed by this section; nor is there express repeal of par. "a" of § 165 by this section, or necessary incompatability with it. The fact that this section sets up a different retirement system, with a different age as to compulsory retirement should not be considered as an implied repeal of par. "a" of § 165.Acton, Heil, Brooks v. Henderson (Three cases) (1957) 150 Cal. App. (2d) 1, 309 Pac. (2d) 481.

The definition of employees in this section was intended to be the same as the term is defined in § 165, and this section was intended to be subject to par. "a" of § 165 insofar as the power of the board of supervisors to determine who shall be members of the retirement system is concerned. Acton, Heil, Brooks v. Henderson (Three cases) (1957) 150 Cal. App. (2d) 1, 309 Pac. (2d) 481.

It is a possible and reasonable interpretation that this section affects all individuals who have not been made, constitutionally, a member of an exempt class under the power conferred by par. "a" of § 165. Acton, Heil, Brooks v. Henderson (Three cases) (1957) 150 Cal. App. (2d) 1, 309 Pac. (2d) 481.

Subsection (B) cited in Reinfeld v. San Francisco City and County Employees Retirement System (1958) 158 Cal. App. (2d) 460, 322 Pac. (2d) 508.

Cited in Carrick v. San Francisco (1962) 202 Cal. App. (2d) 402, 20 Cal. Rptr. 878.

Under subsection F of this section, a city employee's accumulated retirement fund contributions are refundable to him if he ceases for any reason to be an employee before his pension is due. Consequently, where a Municipal Railway employee was suspended from his employment, made a written demand for refund of his contributions, and then filed an appeal seeking reinstatement to his position, but neglected to revoke his demand for refund or to notify the retirement system of his appeal and of his change of position, his contributions were "owing and unpaid" to him within the meaning

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of the statute permitting garnishment of monies owed to a person by a municipality (CCP § 710) and were hence subject to garnishment. McDaniel v. City and County of San Francisco (1968) 259 ACA 376, 66 Cal. Rptr. 384.

(8.551)* § 168.1.6. Retirement Provisions—Police Department.

Under this section, credit against death allowances paid by the City and County is permissible only for payments on a workmen's compensation award made to the same person who receives the death allowances. City and County of San Francisco v. Workmen's Compensation Appeals Board (1968) (Rehearing granted) 267 ACA 721, 73 Cal. Rptr. 418.

The Charter must be liberally construed in order to carry out the beneficial purposes of its pension provisions. City and County of San Francisco v. Workmen's Compensation Appeals Board (1968) (Rehearing granted) 267 ACA 721, 73 Cal. Rptr. 418.

The purpose of Charter pension provisions is to provide a monthly living allowance to the widow of a police officer who dies in the line of duty; this section cannot be construed so as to deprive the widow of this living allowance until such time as the payments she would otherwise have received equal the amount of a workmen's compensation award paid to third persons. City and County of San Francisco v. Workmen's Compensation Appeals Board (1968) (Rehearing granted) 267 ACA 721, 73 Cal. Rptr. 418.

The retirement provisions of the Charter, including this section, constitute part of the contract of employment between the City and County and its policemen. City and County of San Francisco v. Workmen's Compensation Appeals Board (1968) 267 ACA 856, 73 Cal. Rptr. 429.

The retirement provisions of the Charter, including this section, are not only the organic law of San Francisco, but are also the law of the state, with the force of legislative enactments. City and County of San Francisco v. Workmen's Compensation Appeals Board (1968) 267 ACA 856, 73 Cal. Rptr. 429.

Under appropriate charter provisions, a municipality has broad power to prevent double disability payments to the same person; the order in which the respective payments, awards, or allowances are payable is immaterial. City and County of San Francisco v. Workmen's Compensation Appeals Board (1968) 267 ACA 856, 73 Cal. Rptr. 429.

Where a disability award and a city pension are payable con-

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currently, one may be offset or credited against the other to the end that total payments shall not exceed the stipulated monthly pension. **City and County of San Francisco v. Workmen's Compensation Appeals Board** (1968) 267 ACA 856, 73 Cal. Rptr. 429.

The Charter should be construed, if reasonably possible, to avoid double liability to the City and County for one disability injury to one employee. **City and County of San Francisco v. Workmen's Compensation Appeals Board** (1968) 267 ACA 856, 73 Cal. Rptr. 429.

The first sentence of this section is construed to provide for offsetting against a retired policeman's disability allowance, workmen's compensation payments previously made because of the injury that brought about his later retirement; and this section permits the Board of Supervisors to fix the manner in which the retirement allowance may be reduced. **City and County of San Francisco v. Workmen's Compensation Appeals Board** (1968) 267 ACA 856, 73 Cal. Rptr. 429.

Under the second sentence of this section, the City and County is entitled to credit a policeman's disability retirement allowance against a workmen's compensation award given for the same injury subsequent to retirement. **City and County of San Francisco v. Workmen's Compensation Appeals Board** (1968) 267 ACA 856, 73 Cal. Rptr. 429.

(8.561)* § 168.3. **Pension Provisions—Dependents of Members of Fire and Police Departments Killed in Line of Duty.**

On appeal from a judgment supporting the Retirement Board's determination that the widow of a member who had retired and was found to have a service-connected disability was entitled to a pension under section 168.1.5 rather than under this section, it was appellant's burden to show that the evidence and the reasonable inferences therefrom did not support the findings of the Board. On such appeal, respondent enjoys in its favor all inferences arising from conflicts in the evidence, even though an equally reasonable adverse inference is possible. Appellant, in other words, must not only show that a finding in her favor would have been supported, but must demonstrate that such finding is compelled as a matter of law. **Cooper v. Retirement Board of San Francisco** (1955) 131 Cal. App. (2d) 804, 281 Pac. (2d) 349.

In proceedings to compel payment of a widow's pension under this section, rather than under section 168.1.5, for death of a retired

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member the findings of the Retirement Board that the member did not die of injury received in, or illness caused by the performance of his duty and that the widow did not sustain her burden of proving that the member died as a result of injury received in, or illness caused by performance of his duty, were sustained by the evidence where the member, a policeman who suffered a service-connected heart condition had attempted, after his retirement, to make an arrest, whereupon he was assaulted, and the medical testimony showed at most that in the legal sense the cause of his death was the over-exertion or excitement caused by the altercation. **Cooper v. Retirement Board of San Francisco** (1955) 131 Cal. App. (2d) 804, 281 Pac, (2d) 349.

The purpose of this section was to enlarge the rights of widows of firemen killed in line of duty. **Carey v. Retirement Board of San Francisco** (1955) 131 Cal. App. (2d) 739, 281 Pac. (2d) 25.

The phrase "in lieu of," as used in this section means "instead of," "in place of," "in substitution for." This section impliedly repeals section 169(b), therefore, and provides the sole method of compensation for widows of firemen who die from injuries received in line of duty. **Carey v. Retirement Board of San Francisco** (1955) 131 Cal. App. (2d) 739, 281 Pac. (2d) 25.

Cited in **Carrick v. San Francisco** (1962) 202 Cal. App. (2d) 402, 20 Cal. Rptr. 878.

(8.565)* § 169. Present Members of Fire Department.

Subdivision "b" of this section is impliedly repealed by section 168.3, and that section provides the sole method of compensation for widows of firemen who die from injuries received in line of duty. **Carey v. Retirement Board of San Francisco** (1955) 131 Cal. App. (2d) 739, 281 Pac. (2d) 25.

Even though marine engineers wear uniforms and serve on assigned watches, they are not entitled to pension coverage under § 169 unless they fulfill the definition of firemen as given in § 162. **Carrick v. San Francisco** (1962) 202 Cal. App. (2d) 402, 20 Cal. Rptr. 878.

(8.568)* § 171.1 Health Service System.

Cited in **Martin v. San Francisco** (1959) 168 Cal. App. (2d) 570, 336 Pac. (2d) 239.

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(8.570)* § 171.1.2. Pension Provisions–Future Members of Fire Department.

Cited in Carrick v. San Francisco (1962) 202 Cal. App. (2d) 402, 20 Cal. Rptr. 878.

(9.102)* § 173. Registrar of Voters.

Under the provision that "The conduct, management and control of . . . the holding of elections in the city and county shall be vested exclusively" in the registrar of voters, and under the provision in Charter section 180 that "Unless and until it be proven otherwise by official investigation by the registrar, it shall be presumed that the petition filed conforms to all legal requirements and contains" sufficient qualified signatures, the acting registrar of voters did not exceed his authority by undertaking to determine whether a proposed initiative measure was within the power of the electorate to adopt. Farley v. Healey (1967) (dissent) 67 Cal. (2d) 325, 431 Pac. (2d) 650, 62 Cal. Rptr. 26.

(9.108)* § 179. Initiative, Referendum and Recall.

The power of initiative must be liberally construed to promote the democratic process. Farley v. Healey (1967) 67 Cal. (2d) 325, 431 Pac. (2d) 650, 62 Cal. Rptr. 26.

The power of initiative is not limited to submitting initiative measures to the electorate that concern only municipal affairs on which the Board of Supervisors could enact binding legislation. Farley v. Healey (1967) 67 Cal. (2d) 325, 431 Pac. (2d) 650, 62 Cal. Rptr. 26.

This section, which reserves to the people the power to initiate "any ordinance, act or other measure which is within the power conferred upon the board of supervisors to enact . . .", imposes no limits on the type of declarations of policy that may be submitted by initiative. Farley v. Healey (1967) 67 Cal. (2d) 325, 431 Pac. (2d) 650, 62 Cal. Rptr. 26.

The numerical requirement as to submitting initiative measures serves as a built-in safeguard against frivolous use of the initiative process. There is no other limitation in the Charter that prevents submission to a general vote of a measure declaring policy on a matter of national concern. Farley v. Healey (1967) 67 Cal. (2d) 325, 431 Pac. (2d) 650, 62 Cal. Rptr. 26.

Under the provision in section 2 of the Charter that "The city and

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county may make and enforce all laws, ordinances and regulations necessary, convenient or incidental to the exercise of all rights and powers in respect to its affairs, . . ." initiative legislation which may be adopted by a chartered city is limited to "municipal affairs." The latter term, as used in the California Constitution, refers to "the internal business affairs of a municipality." Farley v. Healey (1967) (dissent) 67 Cal. (2d) 325, 431 Pac. (2d) 650, 62 Cal. Rptr. 26.

The use in this section of the phrase "declaration of policy" does not mean that the people intended to reserve to themselves a unique straw vote or poll-taking device. Even if this were the purpose of the framers of the Charter, it would be to no avail, because the limitations of the California Constitution, which is the measure of the initiative power, must control. Farley v. Healey (1967) (dissent) 67 Cal. (2d) 325, 431 Pac. (2d) 650, 62 Cal. Rptr. 26.

(9.109)* § 180. Petitions.

Under this section, the acting registrar of voters exceeded his authority by undertaking to determine whether a proposed initiative measure was within the power of the electorate to adopt. His duty is limited to the ministerial function of ascertaining whether the procedural requirements for submitting an initiative measure have been met. Farley v. Healey (1967) 67 Cal. (2d) 325, 431 Pac. (2d) 650, 62 Cal. Rptr. 26.

Given compliance with the formal requirements for submitting an initiative measure, the registrar of voters must place it on the ballot unless he is directed to do otherwise by a court on a compelling showing that a proper case has been established for interfering with the initiative process. Farley v. Healey (1967) 67 Cal. (2d) 325, 431 Pac. (2d) 650, 62 Cal. Rptr. 26.

Under the provision in Charter section 173 that "The conduct, management and control of . . . the holding of elections in the city and county shall be vested exclusively" in the registrar of voters, and under the provisions in this section that "Unless and until it be proven otherwise by official investigation by the registrar, it shall be presumed that the petition filed conforms to all legal requirements and contains" sufficient qualified signatures, the acting registrar of voters did not exceed his authority by undertaking to determine whether a proposed initiative measure was within the power of the electorate to adopt. Farley v. Healey (1967) (dissent) 67 Cal. (2d) 325, 431 Pac. (2d) 650, 62 Cal. Rptr. 26.

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INITIATIVE ORDINANCES
REFUSE COLLECTION AND DISPOSAL ORDINANCE

Adopted November 8, 1932

Providing for the Collection and Disposition of Refuse in the City and County of San Francisco; Providing for the Licensing of Refuse Collectors by the Director of Public Health; Fixing the Maximum Rates or Charges for the Collection of Refuse by Licensed Refuse Collectors from Homes, Apartment Houses, Stores, etc.; Dividing City and County of San Francisco into Collection Routes; Providing Penalties for the Violation of the Provisions of this Ordinance.

Be it Ordained by the People of the City and County of San Francisco:

SECTION 1. The term "refuse" as used in this ordinance shall be taken to mean all waste and discarded materials from dwelling places, households, apartment houses, stores, office buildings, restaurants, hotels, institutions and all commercial establishments, including waste or discarded food, animal and vegetable matter from all kitchens thereof, waste paper, cans, glass, ashes, and boxes and cuttings from trees, lawns and gardens. Refuse as used herein does not include debris and waste construction materials, including wood, brick, plaster, glass, cement, wire, and other ferrous materials, derived from the construction of or the partial or total demolition of buildings or other structures.

SECTION 2. It shall be unlawful for any person, firm or corporation to dispose of refuse as defined in this ordinance except as herein provided, save that the provisions of this ordinance shall not include refuse which may be incinerated by an owner of a building for himself or for his tenants on the premises where produced; provided, however, that such incineration shall be subject to inspection and control by the Director of Public Health and the Fire Department. Failure of any householder producing refuse to subscribe to and pay for refuse collection, unless such householder is a tenant for whom refuse collection service is provided by his landlord, shall be prima facie evidence that such householder is disposing of refuse in violation of this ordinance.

SECTION 3. Refuse consisting of waste or discarded food, animal and vegetable matter, discarded containers of food, animal

and vegetable matter and ashes shall be collected and placed in suitable metal cans of such capacity as the Director of Public Works may prescribe (but not to exceed 32 gallons in the case of a can serving one single family dwelling unit) by the producer or landlord who by reason of contract or lease with an occupant is obligated to care for such refuse, for collection by a refuse collector to be disposed of as herein provided. Waste paper and boxes and other refuse materials not subject to putrefaction or decay, and cuttings from trees, lawns and gardens may be placed in any suitable container and delivered by the producer or landlord, who by reason of contract or lease with the occupant is obligated to care for such refuse and deliver same to a refuse collector, to be disposed of as herein provided; provided, however, that it shall be optional with the producer or landlord to deliver waste paper or other refuse having a commercial value to a refuse collector, and the producer or landlord may dispose of the same in any manner he may see fit. Refuse which under the provisions hereof must be deposited in a metal can of suitable capacity shall be removed daily from the place where the same is created.

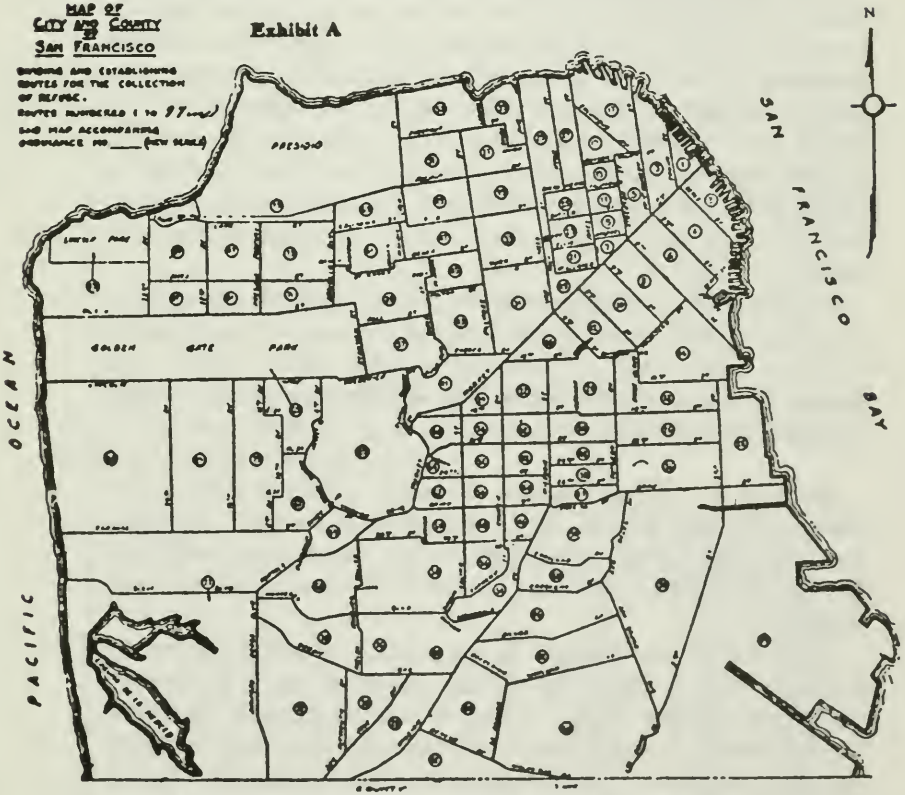
Section 4. It shall be unlawful for any person, firm or corporation, other than a refuse collector licensed by the Director of Public Health as in this ordinance provided, to transport through the streets of the City and County of San Francisco any refuse as in this ordinance defined, or to collect or to dispose of the same, except waste paper, or other refuse having a commercial value. It is provided, however, that a license for a refuse collector, as provided in Section 8 hereof, shall be distinguished from a permit to operate, in the City and County of San Francisco on a certain designated route, as hereinafter provided.

Upon the conviction of any person, firm or corporation for any violation of the provisions of this ordinance, the permit of such person, firm or corporation issued under the provisions of this ordinance, shall be forthwith and immediately terminated and canceled as of the date of conviction.

The City and County of San Francisco is herewith divided and established into routes for the collection of refuse, as designated on a map of the City and County of San Francisco, attached hereto, each said route to include only the side of the street or streets bounding each route as designated by a number on said

map, said routes being numbered one to ninety-seven, inclusive, and said map and said routes are marked Exhibit A, and attached hereto and made a part of this ordinance.

Any person, firm or corporation desiring to transport through the streets of the City and County of San Francisco, any refuse as herein defined, or to collect or dispose of the same, shall make application to the Director of Public Health for permission so to do. Said application for such permit shall contain the name of the person, firm or corporation, any of the particular route or routes, designated in said map of routes, proposed to be served by said person, firm or corporation, and a statement that said person, firm or corporation will abide by all the provisions of this ordinance, and will not charge a greater rate for the collection and disposition of said refuse than that fixed in or pursuant to this ordinance.



MAP OF THE CITY AND COUNTY OF SAN FRANCISCO

The Director of Public Health shall grant a permit to such applicant unless the route proposed is already adequately served by a licensed refuse collector. An application for a permit must be granted, however, by the said Director of Public Health, and it is mandatory on said director to grant the same, when it shall appear in any said application for a route or routes by a person, firm or corporation, that twenty per cent or more of the householders, business men, apartment house owners, hotel keepers, institutions or residents in said route or routes, using refuse service, and paying for same, or obligated to do so, have signed a petition or contract in which they have stated that they are inadequately served by any refuse collector who is then collecting refuse on said route, provided that said director finds upon substantial evidence that such statement is correct. That inadequate service is hereby defined as the failure, on the part of any refuse collector to properly collect, handle or transport refuse on said route, or the overcharging for the collection of same, or insolence towards persons whose refuse has been collected, or the collection by any refuse collector whose license has been revoked as provided in Section 9 hereof. Such permit so granted by the Director of Public Health shall not be exclusive, however, and one or more persons, firms or corporations may be given a permit to collect on the same route.

Persons, firms or corporations desiring to transport through the streets of the City and County of San Francisco only waste paper or other refuse having a commercial value, and to collect and dispose of same need not obtain a permit therefor under the provisions of this ordinance.

Section 5. Refuse collected by refuse collectors shall be disposed of by such persons, firms or corporations and in such manner or by such method or methods as from time to time designated by the Board of Supervisors of the City and County of San Francisco.

Until and unless changed in the manner herein provided the maximum rate or charge for the disposal of refuse to be charged the refuse collector by any person, firm or corporation authorized by the Board of Supervisors to dispose of refuse shall be $1.50 per ton. Such rate or charge may, from time to time, be adjusted in the same manner, and in accordance with the same procedures,

as is provided for the adjustment of rates and charges for the collection of refuse in Section 6(a) of this ordinance.

SECTION 6. (a) Until and unless changed in the manner hereinafter set forth, the maximum rates or charges for the collection and disposition of refuse as herein defined, by refuse collectors, from residences, flats and apartment houses of not more than 600 rooms, and the regulations relating to such rates or charges, shall be as follows:

Rate Schedules

Monthly rates from residences and flats for one container of not exceeding thirty-two gallons. Made from the ground floor:

	Collections Per Week			
No. Rooms	*1.*	*2.*	*3.*	*4.*
1 to 4	$ .80	$1.20	$1.35	$1.50
5	.85	1.25	1.40	1.55
6	.85	1.25	1.40	1.55
7	.95	1.35	1.50	1.70
8	1.00	1.50	1.70	1.80
9	1.00	1.50	1.70	1.80
10	1.00	1.50	1.70	1.80
11	1.00	1.50	1.70	1.80
12	1.00	1.50	1.70	1.80

Monthly rates from residences and flats for one container of not exceeding thirty-two gallons. Made from second floor, one stairway above ground floor or basement:

	Collections Per Week			
No. Rooms	*1.*	*2.*	*3.*	*4.*
1 to 4	$ .85	$1.25	$1.40	$1.55
5	.95	1.35	1.45	1.60
6	.95	1.35	1.45	1.60
7	1.00	1.40	1.55	1.75
8	1.10	1.60	1.80	1.90
9	1.10	1.60	1.80	1.90
10	1.10	1.60	1.80	1.90
11	1.10	1.60	1.80	1.90
12	1.10	1.60	1.80	1.90

Monthly rates from residences and flats for one container of not exceeding thirty-two gallons. Made from third floor, two stairways above ground floor or basement:

	Collections Per Week			
No. Rooms	*1.*	*2.*	*3.*	*4.*
1 to 4	$ .90	$1.30	$1.45	$1.60
5	.95	1.35	1.50	1.65
6	.95	1.35	1.50	1.65
7	1.10	1.55	1.70	1.80
8	1.15	1.70	1.90	2.00
9	1.25	1.75	1.95	2.10
10	1.25	1.75	1.95	2.10
11	1.25	1.75	1.95	2.10
12	1.25	1.75	1.95	2.10

Monthly rates from residences and flats for one container of not exceeding thirty-two gallons. Made from fourth floor, three stairways above ground floor or basement:

	Collections Per Week			
No. Rooms	*1.*	*2.*	*3.*	*4.*
1 to 4	$1.00	$1.40	$1.55	$1.70
5	1.10	1.50	1.65	1.80
6	1.10	1.50	1.65	1.80
7	1.20	1.60	1.75	1.90
8	1.20	1.70	1.90	2.05
9	1.25	1.75	1.95	2.10
10	1.25	2.00	2.20	2.40
11	1.25	2.00	2.20	2.40
12	1.25	2.00	2.20	2.40

Monthly rates from apartment houses:

	Collections Per Week				
No. Rooms	*6.*	*4.*	*3.*	*2.*	*1.*
10	$ 3.00	$ 2.40	$2.20	$1.90	$1.80
20	5.70	4.90	4.40	3.90	3.70
30	7.90	6.40	5.90	5.20	.....
40	9.80	8.70	7.40	.....	.....
50	11.30	10.20	8.70	.....	.....
60	12.50	11.50	.....	.....	.....

No. Rooms	Collections Per Week 6.	4.	3.	2.	1.
70	$13.80	$12.90	$	$	$
80	15.00	14.00			
90	16.30	15.20			
100	17.50	16.20			
110	19.00				
120	20.40				
130	21.80				
140	23.20				
150	24.50				
160	25.90				
170	27.30				
180	28.70				
190	30.00				
200	31.40				
210	32.50				
220	33.80				
230	35.00				
240	36.30				
250	37.50				
260	38.80				
270	40.00				
280	41.30				
290	43.80				
300	45.00				
310	46.30				
320	47.50				
330	48.80				
340	50.00				
350	51.30				
360	52.50				
370	53.80				
380	56.30				
390	57.50				
400	58.80				
410	59.00				
420	60.40				
430	61.80				
440	63.20				

	Collections Per Week				
No. Rooms	*6.*	*4.*	*3.*	*2.*	*1.*
450	$64.50	$	$	$	$ .....
460	65.90	.....	.....	.....	.....
470	67.30	.....	.....	.....	.....
480	68.70	.....	.....	.....	.....
490	70.00	.....	.....	.....	.....
500	71.40	.....	.....	.....	.....
510	72.80	.....	.....	.....	.....
520	74.20	.....	.....	.....	.....
530	75.50	.....	.....	.....	.....
540	76.90	.....	.....	.....	.....
550	78.30	.....	.....	.....	.....
560	79.70	.....	.....	.....	.....
570	82.30	.....	.....	.....	.....
580	82.40	.....	.....	.....	.....
590	83.80	.....	.....	.....	.....
600	85.00	.....	.....	.....	.....

Rate Regulations

Rates for residences and flats shall be increased for more than one container of a maximum of thirty-two gallons by 10 cents per additional container per collection.

Any charge made by a refuse collector for removal of waste material not required to be placed in metal cans and which is delivered to him in other suitable containers as provided by section 3 hereof shall not exceed the rates fixed herein for collection and disposal of equivalent volumes of refuse in metal cans.

In determining the number of rooms of any household, building or apartment in order to ascertain the rate for the collection and disposition of refuse therefrom, halls, alcoves, storerooms, bathrooms, closets and toilets shall not be considered as rooms, nor shall basements or attics be considered as rooms unless the same be occupied as living quarters.

Any collection and disposition charges not specifically set forth herein shall be subject to agreement between the producer and a duly licensed refuse collector.

Procedure for Adjustment

There is hereby created a Rate Board consisting of the Chief Administrative Officer, who shall act as chairman, the Controller, and the Manager of Utilities. The Board shall convene upon call of the Chairman or the other two members and two members shall constitute a quorum. The Board shall act by majority vote. Any member of the Board may from time to time designate a subordinate from his own department to act in his place and stead as a member of the Board.

Any person, firm or corporation (including any holder of a permit to collect and dispose of refuse) affected by the above schedules of rates, or by any revised schedule of rates hereafter placed in effect, and desiring an increase, decrease, or other adjustment or change in, or addition to, such rates or schedules or the regulations appertaining thereto, shall file an application therefor with the Chairman of the Rate Board, who shall thereupon refer the same to the Director of Public Works for hearing, report and recommendation as hereinafter provided, unless the Rate Board shall determine that the application lies beyond its powers or presents no substantial question as to the justice or reasonableness of the rates, schedules of rates or regulations then in effect or is otherwise frivolous, in any of which events the Rate Board shall deny the application without further proceedings thereon.

Within thirty days thereafter, the Director of Public Works shall commence a public hearing upon the application and shall, not less than twenty days in advance of such hearing, cause to be published at least once in the official newspaper notice of the time and place thereof. The Director of Public Works shall be empowered to make or cause to be made such studies and investigations as he may deem pertinent to the application, to continue the hearing from time to time for that purpose, and to introduce the results of such studies and investigations in evidence. The applicant, and any person, firm or corporation affected by the application, shall be entitled to appear at the hearing and be heard. Any such person, firm or corporation desiring notice of further proceedings or action upon the application may file with the Chairman of the Rate Board a written request for such notice, setting forth his name and mailing address.

Upon the conclusion of the hearing and within ninety days after referral to him of the application, the Director of Public

Works shall make and file with the Chairman of the Rate Board a Report setting forth the facts as found by him from the evidence taken and record made at the hearing, and a Recommended Order. The Recommended Order, if it provides for any change in the rates, schedules of rates, or regulations then in effect, shall set forth the date upon which the change is to take effect, which date shall be not less than fifteen days from the date of filing of the Recommended Order with the Chairman of the Rate Board. The Chairman of the Rate Board shall publish the Recommended Order, together with notice of filing thereof, in the official newspaper, and shall mail notice of the filing of the Report and Recommended Order to the applicant and to any others who shall have filed written requests for notice as hereinabove provided.

At any time within fifteen days after filing of the Director of Public Works' Report and Recommended Order with the Chairman of the Rate Board, the applicant or any person, firm or corporation affected by the application, may file with the Chairman of the Rate Board any objections that he may have to the Recommended Order. If no such objections be filed, then the Recommended Order shall be deemed the Order of the Rate Board and shall take effect according to its terms without other or further action by the Rate Board. If any such objections be filed, then the Rate Board, upon not less than ten days notice by mail to the applicant and to others who shall have filed written requests for notice as hereinabove provided, shall hear the objections and, upon the basis of the evidence taken and record made upon the hearing before the Director of Public Works, shall grant or deny the application in whole or in part and shall make such order, to take effect at such time, as may be just and reasonable. In the event of inability or failure of the Rate Board to render a decision within sixty days of the date of filing with it of the Director of Public Works' Report and Recommended Order, then the said Recommended Order shall be deemed the order of the Board and shall take effect upon expiration of said sixty day period.

Any revised rates, schedules of rates or regulations placed in effect pursuant hereto shall be just and reasonable.

An application filed pursuant to this section and denied in whole or in part may not be renewed for a period of one year from the date of filing in the absence of an intervening change in conditions.

(b) Any collection and disposition of rates or charges for establishments other than residences, flats and apartment houses of not more than 600 rooms, shall be subject to contract between the producer and a duly licensed refuse collector.

SECTION 7. It shall be unlawful for any refuse disposer or refuse collector to charge a greater rate for the disposal of refuse or for the collection and disposition of refuse than that fixed in, or pursuant to, Sections 5 and 6(a) of this ordinance.

Nothing herein contained shall be taken or construed as preventing a refuse disposer or a refuse collector from charging a lesser rate or charge for the disposal of refuse or for the collection and disposition of refuse than that fixed in, or pursuant to, Sections 5 and 6(a) of this ordinance.

SECTION 8. Each licensed refuse collector shall be assigned a number by the Director of Public Health. The Director of Public Health shall furnish each collector a metal badge on which is marked the number assigned the collector, who at all times while collecting refuse shall wear said badge in plain view. The Director of Public Health shall collect from each collector for the expense of providing said badge and the issuance of said license the sum of $5. Each vehicle or wagon in which refuse is transported through the streets shall be assigned a number by the Director of Public Health and the number thereof shall be plainly marked thereon.

SECTION 9. The license, as distinguished from a permit herein, of any refuse collector, may be revoked by the Director of Public Health for failure on the part of the refuse collector to properly collect refuse, or for overcharging for the collection of same, or for insolence towards persons whose refuse he is collecting, and it shall be unlawful for any person whose license is so revoked to collect refuse in the City and County of San Francisco.

No license of a refuse collector shall be revoked except upon a hearing of which the refuse collector has been given a notice of at least three days.

SECTION 10. Upon the payment of the rate fixed in or pursuant to Section 6(a) of this ordinance for the collection and

removal of refuse, the person paying the same shall be entitled to, and there shall be delivered to him, a receipt on which shall be shown the amount paid, the premises for which it is paid, the name and number of the collector, the number of the vehicle or wagon, and, in clearly legible print, the schedule of rates applicable to his classification of establishment. On the face of said receipt there shall be printed the following words: "The rates for the collection of refuse are fixed pursuant to initiative ordinance and are printed on the back of this receipt. Complaints as to service should be made to the Department of Public Health."

Upon the payment of a rate fixed by contract pursuant to section 6(b) hereof, the person paying the same shall be given a receipt which shall show the amount paid, the period for which paid, the premises for which paid, the name and number of the collector and the date of payment, and shall bear the notation that the rate charged is subject to private contract.

Section 11. Disputes over charges made by collectors or as to the character of the service performed shall be decided by the Director of Public Health. Any charges made in excess of rates fixed pursuant to this ordinance, when determined by the Director of Public Health, shall be refunded to the person or persons who paid the excess charge.

Section 12. A refuse collector shall be entitled to payment for the collection of refuse at the end of each month from each householder or landlord served by him and from whom the payment is due.

Section 13. The initiative ordinance passed by the People of the City and County of San Francisco on June 14, 1927, providing for the collection and disposition of refuse in the City and County of San Francisco; providing for the licensing of refuse collectors by the Board of Health; fixing the maximum rates or charges for the collection of refuse by licensed refuse collectors from homes and apartment houses; dividing City and County of San Francisco into collection routes; and providing penalties for the violation of the provisions of this ordinance, and all other ordinances in conflict therewith, are herewith repealed.

Section 14. Any person, firm or corporation who shall violate any of the provisions of this ordinance shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed five hundred dollars ($500), or by imprisonment in the County Jail for not more than six (6) months, or by both such fine and imprisonment.

Section 15. This ordinance shall take effect ten days after the declaration of the official count of the votes cast therefor; provided, however, that for the purpose of issuing licenses to refuse collectors, application may be filed and the licenses issued during the period between the final approval of this ordinance and the date of its taking effect.

Section 16. The Controller shall furnish the Director of Public Health with such financial data, including data as to the cost of refuse collections, as may be required by the Director to enable him to perform his functions under this ordinance. The Controller shall likewise make available at any hearing before the Director of Public Works upon an application filed pursuant to section 6 hereof such financial data, including data as to the cost of refuse collections, as the Director of Public Works may deem pertinent to the issues raised by the application. Each collector holding a permit shall keep such records and render such reports as may be required by the Controller to enable him to develop the above-mentioned data, and the Controller shall have access to such records.

Section 17. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. It is hereby declared that this act, and each section, subsection, sentence, clause and phrase thereof, would have been passed irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases had been declared unconstitutional. [*Adopted, 1932; amended, 1946; 1954; 1960*]

REGULATION OF STREET RAILWAY CARS

Adopted May 2, 1935

Providing for the Operation of Street Railway Cars by a Motorman and Conductor, Specifying the Entrance Age of Employees on Street Railways, and Providing a Penalty for Violations Thereof.

Be it Ordained by the People of the City and County of San Francisco:

Section 1. Every street railway car and every cable car while carrying passengers in the City and County of San Francisco, except street railway cars acquired or to be acquired by the City and County of San Francisco subsequent to January 1, 1939, shall be in charge of a motorman or a gripman and a conductor; every motorman and gripman and conductor employed in the operation of any street railway car or cable car must be an adult of not less than twenty-one (21) years of age.

This ordinance shall not be repealed, modified or amended except by vote of the electorate.

Section 2. Any person, firm or corporation violating any provision of this ordinance shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined for each offense, not less than Fifty Dollars ($50), nor more than Three Hundred Dollars ($300), or by imprisonment for a term not exceeding six (6) months in the County Jail of the City and County of San Francisco, or by both such fine and imprisonment. [*Adopted, 1935; amended, 1954*]

Appendix C

Regulating Sale of Fresh Meat

Adopted November 5, 1968

Repealing Sections 557, 558 and 798, Part II, Chapter V, San Francisco Municipal Code (Health Code) relating to hours of business for sale of fresh meats and poultry.

Section 1. Sections 557, 558 and 798, Part II, Chapter V (Health Code) of the San Francisco Municipal Code are hereby repealed.

Section 2. No laws shall hereafter be enacted by the governing body of the City and County of San Francisco, State of California, which would prevent the sale of fresh meat and poultry in San Francisco between the hours of 6:00 P.M. and 7:00 A.M., and on Sundays and Holidays, provided that such sales of fresh meat and poultry shall be subject to those laws heretofore or hereafter enacted which regulate the sale of fresh meat and poultry during the other hours of sale.

APPENDIX D

Permits for Resident Street Artists Peddling Own Creations on Public Sidewalks.

Adopted June 4, 1974.

Any street artist residing in the City of San Francisco who peddles on the public sidewalk those articles or things which he creates himself shall be issued a police peddler permit by the Police Department and a general peddler license by the Tax Collector upon payment of a ($20.00) dollar annual fee to the Tax Collector. Provided that he first files with the Tax Collector an affidavit setting forth his name, address, what he makes and the fact that he makes it himself.

CUMULATIVE SUPPLEMENTAL DIGEST OF CALIFORNIA SUPREME AND APPELLATE COURT DECISIONS

Sup. 1971

CUMULATIVE SUPPLEMENTAL DIGEST

§ 2. Powers of the City and County.

Under the provision that "The city and county may make and enforce all laws, ordinances and regulations necessary, convenient or incidental to the exercise of all rights and powers in respect to its affairs, . . . " initiative legislation which may be adopted by a chartered city is limited to "municipal affairs." The latter term, as used in the California Constitution, refers "to the internal business affairs of a municipality." **Farley v. Healey** (1967) (dissent) 67 Cal. (2d) 325, 431 Pac. (2d) 650, 61 Cal. Rptr. 20.

Approval by the Board of Supervisors (under former Charter Article VI, Chapter 2, Section 28) of a map for recordation under the Subdivision Map Act (now Bus. & Prof. Code §§ 11500-11640) did not constitute acceptance of an offer of dedication of land contained therein. Even if the land involved were a "public ground" under the former Charter section, the act of the Board in approving the map did not constitute acceptance. **Ackley v. City and County of San Francisco** (1970) 11 Cal. App. (3d) 108, 89 Cal. Rptr. 480.

§ 5. Elective Officers in Terms.

The provision in this section requiring automatic forfeiture of the position of any appointive city and county employee who becomes a candidate for election to any public office is unconstitutional in its entirety for overbreadth, which cannot be eliminated by the severance of any language, since the provision relates alike to all public offices, whether they be partisan or nonpartisan in character and whether they be San Francisco offices or national or state offices, and there is shown no compelling need to restrict the fundamental right involved on such a sweeping scale. **Kinnear v. San Francisco** (1964) 61 Cal. (2d) 341, 392 Pac. (2d) 391, 38 Cal. Rptr. 631.

§ 7. Qualifications of Officers and Employees.

Cited in **Hallinan v. Mellon** (1963) 218 Cal. App. (2d) 342, 32 Cal. Rptr. 446.

§ 19. Powers and Duties of Boards and Commissions.

When the approval of two-thirds of the Board of Supervisors is required on any provision, two-thirds of all the members of the Board, whether absent or present at the particular meeting, must approve the measure. **San Francisco v. Western Air Lines, Inc.** (1962) 204 Cal. App. (2d) 105, 22 Cal. Rptr. 216.

§ 20. Powers and Duties of Department Heads.

Cited in **Martinez v. Cahill** (1963) 215 Cal. App. (2d) 823, 30 Cal. Rptr. 566.

§ 22. Non-interference in Administrative Affairs.

This section prohibits direct dealing by the mayor with individual policemen, thus the mayor cannot be personally liable for the negligent acts or omissions of individual policemen. **Martinez v. Cahill** (1963) 215 Cal. App. (2d) 823, 30 Cal. Rptr. 566.

§ 24. Permits and Inspections.

Under §§ 24 and 35.6 and the implementing municipal ordinances, the power with respect to the issuance, refusal and revocation of permits for businesses such as that of a pawnbroker is initially vested in the chief of

police. These provisions set an overall standard governing and guiding the chief of police and prescribing that the exercise of his permit power must not be arbitrary but rather directed to the promotion of the public interest, and in the regulation of the business of a pawnbroker, specific standards are not necessary. **Iscoff v. Police Commission** (1963) 222 Cal. App. (2d) 395, 35 Cal. Rptr. 189.

Cited in **San Francisco v. Superior Court** (1959) 53 Cal. (2d) 236, 347 Pac. (2d) 294, 1 Cal. Rptr. 158.

§ 27. Taxpayers' Suits.

Under this section, a taxpayer's mandamus proceeding to correct deficiencies and errors in property assessments made by the assessor is in the nature of a class action to which equitable principles apply; and where judgment was entered in favor of the taxpayer, an award of attorneys' fees in favor of the petitioners directly payable to the law firms representing petitioners, where such fees were on a contingent percentage basis, was a proper exercise of the court's board equitable powers. **Knoff v. City and County of San Francisco** (1969) 1 Cal. App. (3d) 184, 81 Cal. Rptr. 683.

§ 35. Police Department.

Although the police commission and the chief of police are components of the police department, they are not in themselves identical. **Iscoff v. Police Commission** (1963) 222 Cal. App. (2d) 395, 35 Cal. Rptr. 189.

Cited in **Martinez v. Cahill** (1963) 215 Cal. App. (2d) 823, 30 Cal. Rptr. 566.

§ 35.1. Police Department.

Cited in **Martinez v. Cahill** (1963) 215 Cal. App. (2d) 823, 30 Cal. Rptr. 566.

§ 35.3. Police Department.

See **Martinez v. Cahill** (1963) 215 Cal. App. (2d) 823, 30 Cal. Rptr. 566 citing section 35.1.

§ 35.5. Departments Under Mayor—Police Department.

Cited in **Hegarty v. Sohr** (1961) 190 Cal. App. (2d) 509, 12 Cal. Rptr. 210.

§ 35.5.1. Departments Under Mayor—Police Department.

Longevity pay rates of Los Angeles which were not automatic but were contingent upon certification that one's standard of service was satisfactory and were declared to be a privilege earned by merit and not a right were not a "basic amount of wages" as the term is used in the governing definition of "rates of compensation" expressed in this section. **Hegarty v. Sohr** (1961) 190 Cal. App. (2d) 509, 12 Cal. Rptr. 210.

§ 35.6. Police Department.

Under §§ 24 and 35.6 and the implementing municipal ordinances, the power with respect to the issuance, refusal and revocation of permits for businesses such as that of a pawnbroker is initially vested in the chief of police. These provisions set an overall standard governing and guiding the chief of police and prescribing that the exercise of his permit power must not be arbitrary but rather directed to the promotion of the public interest, and in the regulation of the business of a pawnbroker, specific standards are not necessary. **Iscoff v. Police Commission** (1963) 222 Cal. App. (2d) 395, 35 Cal. Rptr. 189.

§ 36.2. Departments Under Mayor—Fire Department.

Longevity pay rates of Los Angeles which were not automatic but were contingent upon certification that one's standard of service was satisfac-

tory and were declared to be a privilege earned by merit and not a right were not a "basic amount of wages" as the term is used in the governing definition of "rates of compensation" expressed in this section. **Hegarty v. Sohr** (1961) 190 Cal. App. (2d) 509, 12 Cal. Rptr. 210.

§ 39. Board of Permit Appeals.

Failure to invoke and exhaust the administrative remedy of appeal under this section and § 24 to the Board of Permit Appeals constitutes a bar to judicial relief. **Lynn v. Duckel** (1956) 46 Cal. (2d) 845, 299 Pac. (2d) 236.

By ignoring the permit procedure established by this section and § 24 and building a roadway without permit, then suing the Director of Public Works for mandatory injunction for removal of city's obstruction to the roadway, a property owner attempts to nullify the procedure established by law, to the injury of the public, and does not come into court with "clean hands." **Lynn v. Duckel** (1956) 46 Cal. (2d) 845, 299 Pac. (2d) 236.

The Board of Permit Appeals is empowered to exercise full discretion in passing upon matters submitted to it; it is free to draw its own conclusions from the conflicting evidence before it and affirm or overrule the issuance of permits. **San Francisco v. Superior Court** (1959) 53 Cal. (2d) 236, 347 Pac. (2d) 294, 1 Cal. Rptr. 158.

Action of the Board of Permit Appeals involving issuance of a permit for an apartment building was not unconstitutional because unguided by adequate standards; the Charter and ordinances of the city fully prescribe the conditions which must be met by those who would construct apartment dwellings and specify the procedures to be followed by those who would secure permits. These conditions and procedures are the standards which must govern the appropriate administrative agencies. **San Francisco v. Superior Court** (1959) 53 Cal. (2d) 236, 347 Pac. (2d) 294, 1 Cal. Rptr. 158.

Where the Board of Permit Appeals, in considering an application for an apartment building, held a full hearing, viewed the site, and made its independent order, such order raised the presumption that the existence of the necessary facts, based on the standards as prescribed by the Charter and applicable ordinances, interpreted and administered to promote public health, safety, comfort, convenience, and general welfare, had been ascertained and found. Its action could not be successfully attacked on the ground that such standards were lacking. **San Francisco v. Superior Court** (1959) 53 Cal. (2d) 236, 347 Pac. (2d) 294, 1 Cal. Rptr. 158.

Where the Board of Permit Appeals, acting under this section, held full hearings and received expert testimony, a presumption arose that the existence of facts necessary to support its conclusions had been ascertained and found. The Board did not act beyond its jurisdiction or abuse its discretion in ruling upon a decision of the Central Permit Bureau. **Board of Permit Appeals v. Central Permit Bureau** (1960) 186 Cal. App. (2d) 633, 9 Cal. Rptr. 83.

It is well settled that the San Francisco Board of Permit Appeals is an administrative tribunal invested by the city's charter and implementing municipal ordinances with the power to hear and determine the entire controversy before it as to whether or not a permit should be issued, to draw its own conclusions from the conflicting evidence before it, and in the exercise of its own independent judgment to affirm or overrule the action of the official exercising permit power at the primary level. **Iscoff v. Police Commission** (1963) 222 Cal. App. (2d) 395, 35 Cal. Rptr. 189.

In reviewing a pawnbroker's application to transfer his permit to a new location, the board of permit appeals is entitled to consider the effect of the proposed business on the surrounding property and its inhabitants. **Iscoff v. Police Commission** (1963) 222 Cal. App. (2d) 395, 35 Cal. Rptr. 189.

This section has no bearing on the matter of the board's role and power in granting or denying zoning variances. **Cow Hollow Improvement Club v. Board of Permit Appeals** (1966) 245 Cal. App. (2d) 160, 53 Cal. Rptr. 610.

Neither the Charter, nor the Municipal Code provides for findings of fact or law by the Central Permit Bureau. **Russian Hill Improvement Association v. Board of Permit Appeals** (1967) 66 Cal. (2d) 34, 423 Pac. (2d) 824, 56 Cal. Rptr. 672.

Even after a permit has been lawfully issued by the Central Permit Bureau, the Board of Permit Appeals retains discretionary power to order that the permit be denied, because of a pending change in the law. **Russian Hill Improvement Association v. Board of Permit Appeals** (1967) 66 Cal. (2d) 34, 423 Pac. (2d) 824, 56 Cal. Rptr. 672.

This section and related provisions of the Municipal Code do not use the words "issue" and "grant" interchangeably; "issuance" describes the initial departmental action which is reviewed by the Board of Permit Appeals, and "granting" refers to the final disposition of the matter pursuant to the Board's orders. **Russian Hill Improvement Association v. Board of Permit Appeals** (1967) 66 Cal. (2d) 34, 423 Pac. (2d) 824, 56 Cal. Rptr. 672.

See also **Chas. L. Harney, Inc. v. Board of Permit Appeals** (1961) 1965 Cal. App. (2d) 442, 15 Cal. Rptr. 870.

Cited in **Broadway etc. Association v. Board of Permit Appeals** (1966) 246 ACA 29, 54 Cal. Rptr. 562.

§ 46. Art Commission—Powers and Duties.

Where an art project was a cooperative project of the city and a federal agency, the art commission's resolution accepting the art work on dissolution of the federal project was a mere formality rather than a purposeful and unlawful exercise of dominion over privately-owned items mistakenly included in the transaction, and their receipt by the city did not constitute conversion so as to start the running of the statute of limitations at that time; nor did the rsolution constitute notice to the owner of conversion where there was no evidence that the owner knew of the resolution. **Buffano v. City and County of San Francisoc** (1965) 233 Cal. App. (2d) 61, 43 Cal. Rptr. 223.

§ 50. California Palace of the Legion of Honor.

The obvious cultural and administrative requirements of the position of museum director provide legitimate basis for employment classification for the purpose of an ordinance excluding a director from the retirement system upon reappointment after resignation. **Acton, Heil, Brooks v. Henderson** (Three cases) (1957) 150 Cal. App. (2d) 1, 309 Pac. (2d) 481.

§ 51. M. H. de Young Memorial Museum.

The obvious cultural and administrative requirements of the position of museum director provide legitimate basis for employment classification for the purpose of an ordinance excluding a director from the retirement system upon reappointment after resignation. **Acton, Heil, Brooks v. Henderson** (Three cases) (1957) 150 Cal. App. (2d) 1, 309 Pac. (2d) 481.

§ 52. California Academy of Sciences.

The obvious cultural and administrative requirements of the position of museum director provide legitimate basis for employment classification for the purpose of an ordinance excluding a director from the retirement system upon reappointment after resignation. **Acton, Heil, Brooks v. Henderson** (Three cases) (1957) 150 Cal. App. (2d) 1, 309 Pac. (2d) 481.

§ 64. General Powers and Duties of Controller.

This section was not violated by the city in its agreements in connection with establishing an off-street parking facility. **Larsen v. City and County of San Francisco** (1957) 152 Cal. App. (2d) 355, 313 Pac. (2d) 959.

§ 72. Adoption of the Budget and the Appropriation Ordinance.

This section was not violated by the city in its agreements in connection with establishing an off-street parking facility. **Larsen v. City and County of San Francisco** (1957) 152 Cal. App. (2d) 355, 313 Pac. (2d) 959.

§ 82. Receipt, Custody and Deposit of Funds, Investment of Trust Funds.

This section was not violated by the city in its agreement in connection with establishing an off-street parking facility. **Larsen v. City and County of San Francisco** (1957) 152 Cal. App. (2d) 355, 313 Pac. (2d) 959.

§ 85. Expenditures and Payment of Claims.

Cited in **Flora Crane Service, Inc. v. Ross** (1964) 61 Cal. (2d) 199, 390 Pac. (2d) 193, 37 Cal. Rptr. 425.

§ 86. Limitation on Incurrence of Liability.

The second paragraph of this section imposes a correlative duty to that set out therein on the controller, by virtue of his office, to determine whether the necessary funds are available to carry out the proposed expenditure and, if so, to make the appropriate certification. **Flora Crane Service, Inc. v. Ross** (1964) 61 Cal. (2d) 199, 390 Pac. (2) 193, 37 Cal. Rptr. 425.

Under this section the controller cannot make certification until the precise amount of the city's proposed contract is established, but thereafter he has a clear ministerial duty to determine whether the necessary funds are available, and, if they are, to so certify. **Flora Crane Service, Inc. v. Ross** (1964) 61 Cal. (2d) 199, 390 Pac. (2d) 193, 37 Cal. Rptr. 425.

Under this section the controller has an affirmative duty to make certification after the city's contract is established without a specific request by the contract's obligee. **Flora Crane Service, Inc. v. Ross** (1964) 61 Cal. (2d) 199, 390 Pac. (2d) 193, 37 Cal. Rptr. 425.

To compel certification by the controller of an appropriation for a contract after it has been performed does not defeat or impair the requirement of this section that the certification be before the obligation is incurred or authorized so as to open the door to fraudulent imposition of contractual liabilities on the city, where there is a valid appropriation for the expenditure and unencumbered funds are available to pay it. **Flora Crane Service, Inc. v. Ross** (1964) 61 Cal. (2d) 199, 390 Pac. (2d) 193, 37 Cal. Rptr. 425.

§ 87. Limitation on Claims and Damages.

In a personal injury action, the city was not estopped from asserting the defense of noncompliance with this section where there was no finding that the oral notice given to a city employee contained the necessary information for the city to investigate the matter and where the record implied a lack of reliance by the injured plaintiff on the city employee's statement that a delayed filing of a claim would be "all right." **Howard v. San Francisco** (1962) 205 Cal. App. (2d) 602, 23 Cal. Rptr. 183.

§ 93. Lease of City Property.

Cited in **San Francisco v. Western Air Lines, Inc.** (1962) 204 Cal. App. (2d) 105, 22 Cal. Rptr. 216.

§ 108. Repair of Accepted Streets.

Sections 202(c), 203(a), and 205(c) of the Standard Specifications of the Bureau of Engineering, Department of Public Works, should not be read in conjunction with this section; there is no retroactive mandatory duty on the part of the City and County to have curbs throughout the City six inches in height. **Curreri v. City and County of San Francisco** (1968) 262 ACA 657, 69 Cal. Rptr. 20.

Failure to provide curbs on Greenwich Street six inches in height cannot be interpreted as negligence as a matter of law. **Curreri v. City and County of San Francisco** (1968) 261 ACA 657, 69 Cal. Rptr. 20.

§ 117.3. Variances.

The initial determination as to whether a zoning variance should be granted or denied is vested in the zoning administrator, who is empowered to grant a variance only on finding that the conditions of this section and § 302(d) of the City Planning Code are satisfied. **Cow Hollow Improvement Club v. Board of Permit Appeals** (1966) 245 Cal. App. (2d) 160, 53 Cal. Rptr. 610.

A determination by the zoning administrator that the conditions for granting a zoning variance are satisfied is not final where an appeal is taken to the board of permit appeals. **Cow Hollow Improvement Club v. Board of Permit Appeals** (1966) 245 Cal. App. (2d) 160, 53 Cal. Rptr. 610.

Upon the taking of an appeal from the zoning administrator to the board of permit appeals, the board is not bound by the administrator's findings or his decision; hence the board is invested with complete power to hear and determine the entire controversy before it and to draw its own conclusions from conflicting evidence before it and, in the exercise if its independent judgment, to affirm, modify, or overrule the administrator's action. **Cow Hollow Improvement Club v. Board of Permit Appeals** (1966) 245 Cal. App. (2d) 160, 53 Cal. Rptr. 610.

The board's role and power in granting or denying zoning variances are governed exclusively by this section and by Section 303 of the City Planning Code. **Cow Hollow Improvement Club v. Board of Permit Appeals** (1966) 245 Cal. App. (2d) 160, 53 Cal. Rptr. 610.

Cited in **Russian Hill Improvement Association v. Board of Permit Appeals** (1967) 66 Cal. (2d) 34, 423 Pac. (2d) 824, 56 Cal. Rptr. 672.

§ 119. Public Utility Policy.

Cited in **Market Street Railway Company v. California State Board of Equalization** (1956) 137 Cal. App. (2d) 87, 290 Pac. (2d) 20.

§ 119.1. Extension of Municipal Railway by Unification with Market Street Railway.

Cited in **Market Street Railway Company v. California State Board of Equalization** (1956) 137 Cal. App. (2d) 87, 290 Pac. (2d) 20.

§ 120. Public Utilities Commission.

A reading of this section in conjunction with §§ 121, 122 and 125 shows that the charter intended to designate and establish the airport as a public utility. **San Francisco v. Western Air Lines, Inc.** (1962) 204 Cal. App. (2d) 105, 22 Cal. Rptr. 216.

§ 121. Public Utilities Commission — General Powers and Duties of Commission.

A reading of this section in conjunction with §§ 120, 122 and 125 shows that the charter intended to designate and establish the airport as a public utility. **San Francisco v. Western Air Lines, Inc.** (1962) 204 Cal. App. (2d) 105, 22 Cal. Rptr. 216.

§ 122. Public Utilities Commission—Utility Departments and Bureaus.

A reading of this section in conjunction with §§ 120, 121 and 125 shows that the charter intended to designate and establish the airport as a public utility. **San Francisco v. Western Air Lines, Inc.** (1962) 204 Cal. App. (2d) 105, 22 Cal. Rptr. 216.

§ 123. Referendum on Any Lease or Sale of Public Property.

An off-street parking facility is not a public utility within the meaning of this section. **Larsen v. City and County of San Francisco** (1957) 152 Cal. App. (2d) 355, 313 Pac. (2d) 959.

Cited in **San Francisco v. Western Air Lines, Inc.** (1962) 204 Cal. App. (2d) 105, 22 Cal. Rptr. 216.

§ 125. Public Utilities Commission — Employments.

A reading of this section in conjunction with §§ 120, 121 and 122 shows that the charter intended to designate and establish the airport as a public utility. **San Francisco v. Western Air Lines, Inc.** (1962) 204 Cal. App. (2d) 105, 22 Cal. Rptr. 216.

§ 130. Public Utilities Commission — Rates.

This section is permissive in character. It does not demand that all users of facilities be charged equal rates, nor does it proscribe unequal rates or even give definition to the terms employed. **San Francisco v. Western Air Lines, Inc.** (1962) 204 Cal. App. (2d) 105, 22 Cal. Rptr. 216.

§ 140. Civil Service Commission.

Cited in **Murphy v. Walsh** (1958) 158 Cal. App. (2d) 675, 323 Pac. (2d) 206.

§ 141. Powers and Duties.

The rules of the Civil Service Commission made under the powers given in this section have the force and effect of law so long as they are reasonable and within the fundamental provisions of the Charter. **Murphy v. Walsh** (1958) 158 Cal. App. (2d) 675, 323 Pac. (2d) 206.

The provision that "the allocation or re-allocation of a position shall not adversely affect the civil service rights of an occupant regularly holding such position" includes the right of an incumbent to retain the same schedule of compensation following reclassification of his position that he had before; and where the commission and the board of supervisors reclassified the position of probation officer and created two new positions, the rights of incumbents not qualified for the higher of the two new positions were not impaired where they were retained in their old position and at their old rate of pay. **Forstner v. City and County of San Francisco** (1966) 239 Cal. App. (2d) 516, 48 Cal. Rptr. 805.

There is no conflict between the provision that "the allocation or reallocation of a position shall not adversely affect the civil service rights of an occupant regularly holding such position" and the provision of Section 151 that "like compensation shall be paid for like service, based upon the classification as provided in section 141"; the latter provision is applied except where compliance therewith would adversely affect the salary and other civil service rights of incumbents regularly employed by the city. **Forstner v. City and County of San Francisco** (1966) 239 Cal. App. (2d) 516, 48 Cal. Rptr. 805.

Cited in **Matthews v. Civil Service Commission** (1958) 158 Cal. App. (2d) 169, 322 Pac. (2d) 234.

Cited in **McGill v. San Francisco** (1964) 231 Cal. App. (2d) 35, 41 Cal. Rptr. 568.

§ 145. Qualifications and Tests.

Cited in **Murphy v. Walsh** (1958) 158 Cal. App. (2d) 675, 323 Pac. (2d) 206.

Cited in **Puckett v. San Francisco** (1962) 208 Cal. App. (2d) 471, 25 Cal. Rptr. 276.

§ 145.1. Limited Tenure Appointments.

The provision in this section that dismissal of limited tenure employees shall be "with the approval of the Civil Service Commission" is plain in its terms and means that an appointing officer may not terminate the employment of a limited tenure employee without the approval of the Commission; it cannot be read to mean "without the approval of the Civil Service Commission if a court finds that the appointing officer had good cause." **McGill v. San Francisco** (1964) 231 Cal. App. (2d) 35, 41 Cal. Rptr. 568.

This section, which requires approval of an act by an officer, presumptively includes the right to disapprove. **McGill v. San Francisco** (1964) 231 Cal. App. (2d) 35, 41 Cal. Rptr. 568.

§ 146. Promotions.

This section does not place a limit on the kind of question or problem that can be propounded. It must pertain to matters concerning the duties of the department for which the examination is held. **Murphy v. Walsh** (1958) 158 Cal. App. (2d) 675, 323 Pac. (2d) 206.

Under the requirements of this section as to the subject matter of tests, the Civil Service Commission did not abuse its discretion in requiring the applicant to prepare a radio script where the subject matter of the script pertained to the duties of the position to be filled. **Murphy v. Walsh** (1958) 158 Cal. App. (2d) 675, 323 Pac. (2d) 206.

§ 148. Civil Service — Requisition, Certification and Appointment.

When substantial evidence of the unfitness of a probationary policeman, concerning his conduct prior to appointment, becomes known to the police chief and this evidence was not made available to or considered by the civil service commission at the time it placed the candidate on the eligible list, the police chief has the discretion to act on such evidence by terminating the appointment. **Puckett v. San Francisco** (1962) 208 Cal. App. (2d) 471, 25 Cal. Rptr. 276.

Cited in **Martinez v. Cahill** (1963) 215 Cal. App. (2d) 823, 30 Cal. Rptr. 566.

§ 151. Standardization of Compensation.

Where the civil service commission certified a contract rate in March, 1955, as required under § 151.3, and in June discovered a change in conditions placing the employees under § 151, rather than in § 151.3, it was too late to proceed under § 151 for that year because of the provision that the Board of Supervisors must adopt salary schedules not later than April 1. **Miller v. San Francisco** (1959) 174 Cal. App. (2d) 109, 344 Pac. (2d) 102.

The provision that "like compensation shall be paid for like services, based upon the classification as provided in section 141 of the charter," is not in conflict with the provision of section 141 that "the allocation or re-allocation of a position shall not adversely affect the civil service rights of an occupant regularly holding such position." The latter provision is applied in all cases except where compliance therewith would adversely affect the salary and other civil service rights of incumbents regularly employed by the city. **Forstner v. City and County of San Francisco** (1966) 239 Cal. App. (2d) 516, 48 Cal. Rptr. 805.

The courts will not interfere with the rate-making authority in the matter of setting salaries at prevailing rates unless the rates are so pal-

pably unreasonable and arbitrary as to indicate an abuse of discretion as a matter of law, or where there is fraud. **San Francisco Chamber of Commerce v. City and County of San Francisco** (1969) 275 Cal. App. (2d) 499, 79 Cal. Rptr. 915.

Although the Charter requires that the Civil Service Commission shall recommend schedules of compensation solely on the basis of its survey of wages, it does not purport to bind the supervisors to ratify the schedule proposed by the Commission by enacting it into ordinance. **San Francisco Chamber of Commerce v. City and County of San Francisco** (1969) 275 Cal. App. (2d) 499, 79 Cal. Rptr. 915.

The determining of prevailing wage rates is primarily for the legislative branch. **San Francisco Chamber of Commerce v. City and County of San Francisco** (1969) 275 Cal. App. (2d) 499, 79 Cal. Rptr. 915.

Where the Civil Service Commisison schedule of compensation recommended an increase of 7½ percent or more for some employees, 5 percent for others, 2½ percent for others, and no increase for some, and where the Board of Supervisors amended the proposed schedule by enacting the salary ordinance with a 5 percent across-the-board increase, such salary ordinance was not invalid on the grounds it set rates that were so palpably unreasonable and arbitrary as to indicate an abuse of discretion as a matter of law. **San Francisco Chamber of Commerece v. City and County of San Francisco** (1969) 275 Cal. App. (2d) 499, 79 Cal. Rptr. 915.

§ 151.3. Standardization of Compensation.

The purpose of this section is to provide a standard for determining pay rates that will insure city civil service employees a wage scale commensurate with wages received by workers in the same field in private industry. **Thomlinson v. San Francisco** (1964) 227 Cal. App. (2d) 619, 38 Cal Rptr. 863.

The provision in this section calling for review of collective bargaining agreements in private industry as of July 1 and for the certification on or before the second Monday of July of any modification of rates established thereunder is to insure that rates of pay for city and county employees established by such private industry agreements for the new fiscal year shall be those actually prevailing on July 1. **Thomlinson v. San Francisco** (1964) 227 Cal. App. (2d) 619, 38 Cal. Rptr. 863.

Though the provision of San Francisco Charter, § 151.3, making the wage rates of groups or crafts in private employment the standard for setting wage rates for groups or crafts employed by the city, protects civil service employees covered by it as to modifications of rates of pay in private industry between April 1 and July 1 of any year, the basic purpose of the section predominates, that is, that the employee shall be entitled to the rate of pay generally prevailing in private employment in San Francisco on July 1, whether that be more or less than that prevailing on or prior to April 1. **Thomlinson v. San Francisco** (1964) 227 Cal. App. (2d) 619, 38 Cal. Rptr. 863.

Under this section the civil service commission is required to certify the rate of pay generally prevailing in private employment in San Francisco to establish the wage scale for city and county employees and has the implied power to correct any error in certifying inapplicable rates. **Thomlinson v. San Francisco** (1964) 227 Cal. App. (2d) 619, 38 Cal. Rptr. 863.

This section must be applied in a manner which is consonant with its objective and also fair and just, not only to the employees involved, but also to the general public. **Thomlinson v. San Francisco** (1964) 227 Cal. App. (2d) 619, 38 Cal. Rptr. 863.

Cited in **Estes v. City of Richmond** (1967) 249 Cal. App. (2d) 538, 57 Cal. Rptr. 536.

§ 151.3.1. Compensation of Platform Employees and Coach and Bus Operators of the Municipal Railway.

The interpretation of a Charter provision is a proper matter for declaratory relief. **Squire v. City and County of San Francisco** (1970) 12 Cal. App. (3d) 974, ... Cal. Rptr. .....

Rules of statutory construction are applied to the interpretation of Charter provisions, and the language of a Charter must be given its plain meaning. **Squire v. City and County of San Francisco** (1970) 12 Cal. App. (3d) 974, ... Cal. Rptr. .....

The term "wage schedule" as used in this section refers to a printed list containing hourly wages to be paid to municipal railway operators; and the amounts included in such a list must necessarily be fixed and certain. **Squire v. City and County of San Francisco** (1970) 12 Cal. App. (3d) 974, ... Cal. Rptr. .....

This section makes no provision for quarterly cost-of-living adjustments based on the movements of a Consumer Price Index. **Squire v. City and County of San Francisco** (1970) 12 Cal. App. (3d) 974, ... Cal. Rptr. .....

The definition of "wage schedule" as used in this section includes only the maximum rate of pay provided in each such wage schedule, and does not include cost-of-living adjustments that may be added to the rate of pay pursuant to other sections of a collective bargaining agreement. **Squire v. City and County of San Francisco** (1970) 12 Cal. App. (3d) 974, ... Cal. Rptr. .....

The purpose of this section is to permit the municipal railway operators to catch up with other employees generally in their fringe benefits. **Squire v. City and County of San Francisco** (1970) 12 Cal. App. (3d) 974, ... Cal. Rptr. .....

Mandamus is a proper remedy to compel city officials to perform their Charter-prescribed duties; and where these duties are continuing ones, the writ may be directed to future actions. **Squire v. City and County of San Francisco** (1970) 12 Cal. App. 3d) 974, ... Cal. Rptr. .....

§ 151.5. Vacations for Per Diem Workers.

This section by its express terms provides that it shall have some retroactive application, and hence vacation pay is properly granted to city employees who left the city service shortly prior to passage of this section. **Boyer v. County of Contra Costa** (1965) 235 Cal. App. (2d) 111, 45 Cal. Rptr. 58.

§ 154. Suspension and Dismissal for Cause.

The first sentence of this section, providing that a civil service employee shall not be removed or discharged "except for cause," is interpreted to mean that any reasonable, sufficient cause may be grounds for dismissal by the appointing officer. **Whoriskey v. San Francisco** (1963) 213 Cal. App. (2d) 400, 28 Cal. Rptr. 833.

The general power of the appointing officer to discharge is not limited by the specified grounds that apply when charges are filed by one other than the appointing officer. The appointing officer has a wide discretion in determining the fitness of an employee to continue performing the duties required by his employment. **Whoriskey v. San Francisco** (1963) 213 Cal. App. (2d) 400, 28 Cal. Rptr. 833.

The term "for cause" implies the existence of some fact that would constitute reasonable cause of removal; and in deciding whether the removal of a permanent employee was reasonable, the appellate court looks to the findings of the civil service commission rather than to the findings of the superior court that acted as the reviewing tribunal. **Forstner v. City and County of San Francisco** (1966) 243 Cal. App. (2d) 625, 52 Cal. Rptr. 621.

Insubordination by a civil service employee can be rightfully predicated only on a refusal to obey an order that a superior officer is entitled to give and to have obeyed, and the order must reasonably be related to the employee's duties. **Forstner v. City and County of San Francisco** (1966) 243 Cal. App. (2d) 625, 52 Cal. Rptr. 621.

The right of appeal by a discharged employee is conferred solely by this section, and an employee desiring to appeal the order of discharge, after the hearing required before the discharging officer, must conform to the required procedure. **Smith v. City and County of San Francisco** (1970) 11 Cal. App. (3d) 606, 89 Cal. Rptr. 878.

An appellant's notice of appeal must briefly specify the grounds for the appeal. **Smith v. City and County of San Francisco** (1970) 11 Cal. App. (3d) 606, 89 Cal. Rptr. 878.

A hearing on appeal, following the required hearing before the discharging officer, is not required or contemplated under this section, and the Commisison may consider the transcript and the written grounds for appeal and act on them without more. **Smith v. City and County of San Francisco** (1970) 11 Cal. App.. (3d) 606, 89 Cal. Rptr. 878.

Where the Commission requires "in writing any additional evidence it deems material," or where its examination extends to matters other than the record of the hearing, the discharged employee must be given the opportunity to know and to contest such additional matters. **Smith v. City and County of San Francisco** (1970) 11 Cal. App. (3d) 606, 89 Cal. Rptr. 878.

The fact that the hearing officer is also the appointing officer does not vitiate the procedure herein on the ground of unfairness. **Smith v. City and County of San Francisco** (1970) 11 Cal. App. (3d) 606, 89 Cal. Rptr. 878.

Procedural due process is not denied by this section, in requiring the appeal to be prosecuted in writing. **Smith v. City and County of San Francisco** (1970) 11 Cal. App. (3d) 606, 89 Cal. Rptr. 878.

§ 155. Fire and Police Disciplinary Procedure.

Former section cited: power of removal or suspension in police commission only. **Martinez v. Cahill** (1963) 215 Cal. App. (2d) 823, 30 Cal. Rptr. 566.

This section clearly provides authority in the fire chief to suspend without a prior hearing and affords ample protection of all the members' constitutional rights. **Apostoli v. City and County of San Francisco** (1969) 268 ACA 786.

The statutory power of the fire chief to suspend without a prior hearing is not without restraint; the suspended member has the right to appeal to the Fire Commission, and this appeal contemplates a full hearing with the right of a member to appear with counsel, to have a public trial, and to secure the attendance of witnesses for his defense. **Apostoli v. City and County of San Francisco** (1969) 268 ACA 786.

Where a fire department member suspended by the fire chief appeals to the Fire Commission, the commission has the power to reverse or alter the finding of the chief, and in case of reversal may in its discretion order that the member affected be paid salary for the period of suspension. **Apostoli v. City and County of San Francisco** (1969) 268 ACA 786.

The formalities of this section and of Section 4403 of the Rules and Regulations of the Fire Department, relating to suspension by the fire chief without a hearing, are complied with by the delivery to the member of a copy of the City's investigating report on which the suspension was based. **Apostoli v. City and County of San Francisco** (1969) 268 ACA 786.

This section expressly authorizes dismissal for cause of a member of the fire or police department, even where there is no intentional breach

of duty or misconduct on the part of the member. **O'Neal v. City and County of San Francisco** (1969) 272 Cal. App. (2d) 869, 77 Cal. Rptr. 855.

Physical inability to perform a policeman's duty caused by a disability resulting from illness not incurred in the line of duty is sufficient cause for dismissal. **O'Neal v. City and County of San Francisco** (1969) 272 Cal. App. (2d) 869, 77 Cal. Rptr. 855.

§ 158.1. Retirement of Elective Officers.

Cited in **Carey v. Retirement Board of San Francisco** (1955) 131 Cal. App. (2d) 739, 281 Pac. (2d) 25.

§ 158.2. Retirement of Elective Officers (continued).

Cited in **Carey v. Retirement Board of San Francisco** (1955) 131 Cal. App. (2d) 739, 281 Pac. (2d) 25.

§ 158.3. Retirement—Court Employees and Attaches.

Cited in **Carey v. Retirement Board of San Francisco** (1955) 131 Cal. App. (2d) 739, 281 Pac. (2d) 25.

§ 162. Definition, Members of Fire and Police Departments.

This section was intended to exclude from § 169 pension coverage all marine engineers who were not required to meet the 35-year age limitation prescribed for regular members of the fire department. **Carrick v. San Francisco** (1962) 202 Cal. App. (2d) 402, 20 Cal. Rptr. 878.

§ 165. Miscellaneous Officers and Employees.

Since this section and § 165.2 both require employees to be members of the retirement system and there is no provision in either section permitting over-age persons to become members, such persons are not eligible for city employment under charter provisions alone. **Acton, Heil, Brooks v. Henderson** (Three cases) (1957) 150 Cal. App. (2d) 1, 309 Pac. (2d) 481.

The power conferred upon the board of supervisors by par. "a" of this section to include certain offices, departments, etc., within the retirement system includes, by implication, the power of exclusion. Exclusion of employees may be by classification. Where such employees have resigned from their positions, the section permits their reemployment. **Acton, Heil, Brooks v. Henderson** (Three cases) (1957) 150 Cal. App. (2d) 1, 309 Pac. (2d) 481.

The provision of par. "a" of this section making retirement compulsory at age 70 is qualified by the discretion vested in the board of supervisors. **Acton, Heil, Brooks v. Henderson** (Three cases) (1957) 150 Cal. App. (2d) 1, 309 Pac. (2d) 481.

This section was not expressly or impliedly repealed by § 165.2; nor is there express repeal of par. "a" of this section by § 165.2, or necessary incompatability with it. The fact that § 165.2 sets up a different retirement system, with a different age as compulsory retirement should not be considered as an implied repeal of par. "a" of this section. **Acton, Heil, Brooks v. Henderson** (Three cases) (1957) 150 Cal. App. (2d) 1, 309 Pac. (2d) 481.

The definition of employees in § 165.2 was intended to be the same as the term is defined in this section and § 165.2 was intended to be subject to par. "a" of this section insofar as the power of the board of supervisors to determine who shall be member of the retirement system is concerned. **Acton, Heil, Brooks v. Henderson** (Three cases) (1957) 150 Cal. App. (2d) 1, 309 Pac. (2d) 481.

It is a possible and reasonable interpretation that § 165.2 affects all individuals who have not been made, constitutionally, a member of an exempt class under the power conferred by par. "a" of this section.

Acton, Heil, Brooks v. Henderson (Three cases) (1957) 150 Cal. App. (2d) 1, 309 Pac. (2d) 481.

Cited in **Carrick v. San Francisco** (1962) 202 Cal. App. (2d) 402, 20 Cal. Rptr. 878.

§ 165.2. Retirement—Miscellaneous Officers and Employees On and After July 1, 1947.

Since this section and § 165 both require employees to be members of the retirement system and there is no provision in either section permitting over-age persons to become members, such persons are not eligible for city employment under charter provisions alone. **Acton, Heil, Brooks v. Henderson** (Three cases) (1957) 150 Cal. App. (2d) 1, 309 Pac. (2d) 481.

Section 165 was not expressly or impliedly repealed by this section; nor is there express repeal of par. "a" of § 165 by this section, or necessary incompatability with it. The fact that this section sets up a different retirement system, with a different age as to compulsory retirement should not be considered as an implied repeal of par. "a" of § 165. **Acton, Heil, Brooks v. Henderson** (Three cases) (1957) 150 Cal. App. (2d) 1, 309 Pac. (2d) 481.

The definition of employees in this section was intended to be the same as the term is defined in § 165, and this section was intended to be subject to par. "a" of § 165 insofar as the power of the board of supervisors to determine who shall be members of the retirement system is concerned. **Acton, Heil, Brooks v. Henderson** (Three cases) (1957) 150 Cal. App. (2d) 1, 309 Pac. (2d) 481.

It is a possible and reasonable interpretation that this section affects all individuals who have not been made, constitutionally, a member of an exempt class under the power conferred by par. "a" of § 165. **Acton, Heil, Brooks v. Henderson** (Three cases) (1957) 150 Cal. App. (2d) 1, 309 Pac. (2d) 481.

Subsection (B) cited in **Reinfeld v. San Francisco City and County Employees Retirement System** (1958) 158 Cal. App. (2d) 460, 322 Pac. (2d) 508.

Cited in **Carrick v. San Francisco** (1962) 202 Cal. App. (2d) 402, 20 Cal. Rptr. 878.

Under subsection F of this section, a city employee's accumulated retirement fund contributions are refundable to him if he ceases for any reason to be an employee before his pension is due. Consequently, where a Municipal Railway employee was suspended from his employment, made a written demand for refund of his contributions, and then filed an appeal seeking reinstatement to his position, but neglected to revoke his demand for refund or to notify the retirement system of his appeal and of his change of position, his contributions were "owing and unpaid" to him within the meaning of the statute permitting garnishment of monies owed to a person by a municipality (CCP § 710) and were hence subject to garnishment. **McDaniel v. City and County of San Francisco** (1968) 259 ACA 376, 66 Cal. Rptr. 384.

§ 168.1.6. Retirement Provisions — Police Department.

Under this section, credit against death allowances paid by the City and County is permissible only for payments on a workmen's compensation award made to the same person who receives the death allowances. **City and County of San Francisco v. Workmen's Compensation Appeals Board** (1968) (Rehearing granted) 267 ACA 721, 73 Cal. Rptr. 418.

The Charter must be liberally construed in order to carry out the beneficial purposes of its pension provisions. **City and County of San Francisco v. Workmen's Compensation Appeals Board** (1968) (Rehearing granted) 267 ACA 721, 73 Cal. Rptr. 418.

The purpose of Charter pension provisions is to provide a monthly

living allowance to the widow of a police officer who dies in the line of duty; this section cannot be construed so as to deprive the widow of this living allowance until such time as the payments she would otherwise have received equal the amount of a workmen's compensation award paid to third persons. **City and County of San Francisco v. Workmen's Compensation Appeals Board** (1968) (Rehearing granted) 267 ACA 721, 73 Cal. Rptr. 418.

The retirement provisions of the Charter, including this section, constitute part of the contract of employment between the City and County and its policemen. **City and County of San Francisco v. Workmen's Compensation Appeals Board** (1968) 267 ACA 856, 73 Cal. Rptr. 429.

The retirement provisions of the Charter, including this section, are not only the organic law of San Francisco, but are also the law of the state, with the force of legislative enactments. **City and County of San Francisco v. Workmen's Compensation Appeals Board** (1968) 267 ACA 856, 73 Cal. Rptr. 429.

Under appropriate charter provisions, a municipality has broad power to prevent double disability payments to the same person; the order in which the respective payments, awards, or allowances are payable is immaterial. **City and County of San Francisco v. Workmen's Compensation Appeals Board** (1968) 267 ACA 856, 73 Cal. Rptr. 429.

Where a disability award and a city pension are payable concurrently, one may be offset or credited against the other to the end that total payments shall not exceed the stipulated monthly pension. **City and County of San Francisco v. Workmen's Compensation Appeals Board** (1968) 267 ACA 856, 73 Cal. Rptr. 429.

The Charter should be construed, if reasonably possible, to avoid double liability to the City and County for one disability injury to one employee. **City and County of San Francisco v. Workmen's Compensation Appeals Board** (1968) 267 ACA 856, 73 Cal. Rptr. 429.

The first sentence of this section is construed to provide for offsetting against a retired policeman's disability allowance, workmen's compensation payments previously made because of the injury that brought about his later retirement; and this section permits the Board of Supervisors to fix the manner in which the retirement allowance may be reduced. **City and County of San Francisco v. Workmen's Compensation Appeals Board** (1968) 267 ACA 856, 73 Cal. Rptr. 429.

Under the second sentence of this section, the City and County is entitled to credit a policeman's disability retirement allowance against a workmen's compensation award given for the same injury subsequent to retirement. **City and County of San Francisco v. Workmen's Compensation Appeals Board** (1968) 267 ACA 856, 73 Cal. Rptr. 429.

This section provides that the portion of any allowance payable to a "person" because of a policeman's death resulting from injuries received in the performance of duty "shall be considered as in lieu of any benefits . . . payable to or on account of such persons [sic] under the [Workmen's Compensation Law]. This credit against death allowances is permissible only for payments on a workmen's compensation award to the same person who receives the death allowances; and hence where a widow had been receiving a death allowance, and she and her minor children subsequently applied for workmen's compensation benefits based on the policeman's injuries and death, the City and County is not entitled to credit the death allowances heretofore and currently being paid against the workmen's compensation awards it was required to pay to the minor children. **City and County of San Francisco v. Workmen's Compensation Appeals Board** (1969) 269 Cal. App. (2d) 382, 74 Cal. Rptr. 810.

A court is required to construe liberally the Charter in order to carry out the beneficial purposes of its pension provisions. **City and County of**

San Francisco v. Workmen's Compensation Appeals Board (1969) 269 Cal. App. (2d) 382, 74 Cal. Rptr. 810.

The obvious purpose of the Charter is to provide a monthly living allowance to the widow of a police officer who dies in the line of duty. **City and County of San Francisco v. Workmen's Compensation Appeals Board** (1969) 269 Cal. App. (2d) 382, 74 Cal. Rptr. 810.

§ 168.3. Pension Provisions — Dependents of Members of Fire and Police Departments Killed in Line of Duty.

On appeal from a judgment supporting the Retirement Board's determination that the widow of a member who had retired and was found to have a service-connected disability was entitled to a pension under section 168.1.5 rather than under this section, it was appellant's burden to show that the evidence and the reasonable inferences therefrom did not support the findings of the Board. On such appeal, respondent enjoys in its favor all inferences arising from conflicts in the evidence, even though an equally reasonable adverse inference is possible. Appellant, in other words, must not only show that a finding in her favor would have been supported, but must demonstrate that such finding is compelled as a matter of law. **Cooper v. Retirement Board of San Francisco** (1955) 131 Cal. App. (2d) 804, 281 Pac. (2d) 349.

In proceedings to compel payment of a widow's pension under this section, rather than under section 168.1.5, for death of a retired member the findings of the Retirement Board that the member did not die of injury received in, or illness caused by the performance of his duty and that the widow did not sustain her burden of proving that the member died as a result of injury received in, or illness caused by performance of his duty, were sustained by the evidence where the member, a policeman who suffered a service-connected heart condition had attempted, after his retirement, to make an arrest, whereupon he was assaulted, and the medical testimony showed at most that in the legal sense the cause of his death was the over-exertion or excitement caused by the altercation. **Cooper v. Retirement Board of San Francisco** (1955) 131 Cal. App. (2d) 804, 281 Pac. (2d) 349.

The purpose of this section was to enlarge the rights of widows of firemen killed in line of duty. **Carey v. Retirement Board of San Francisco** (1955) 131 Cal. App. (2d) 739, 281 Pac. (2d) 25.

The phrase "in lieu of," as used in this section means "instead of," "in place of," "in substitution for." This section impliedly repeals section 169 (b), therefore, and provides the sole method of compensation for widows of firemen who die from injuries received in line of duty. **Carey v. Retirement Board of San Francisco** (1955) 131 Cal. App. (2d) 739, 281 Pac. (2d) 25.

Cited in **Carrick v. San Francisco** (1962) 202 Cal. App. (2d) 402, 20 Cal. Rptr. 878.

§ 169. Present Members of Fire Department.

Subdivision "b" of this section is impliedly repealed by section 168.3, and that section provides the sole method of compensation for widows of firemen who die from injuries received in line of duty. **Carey v. Retirement Board of San Francisco** (1955) 131 Cal. App. (2d) 739, 281 Pac. (2d) 25.

Even though marine engineers wear uniforms and serve on assigned watches, they are not entitled to pension coverage under § 169 unless they fulfill the definition of firemen as given in § 162. **Carrick v. San Francisco** (1962) 202 Cal. App. (2d) 402, 20 Cal. Rptr. 878.

§ 171.1. Health Service System.

Cited in **Martin v. San Francisco** (1959) 168 Cal. App. (2d) 570, 336 Pac. (2d) 239.

§ 171.1.2. Pension Provisions — Future Members of Fire Department.

Cited in **Carrick v. San Francisco** (1962) 202 Cal. App. (2d) 402, 20 Cal. Rptr. 878.

§ 172. Compensation Insurance Payments.

This section is intended to provide that any payments made to an injured employee by the city and county should first be applied in satisfaction of its liability under the Labor Code. **City and County of San Francisco v. Workmen's Compensation Appeals Board** (1970) 2 Cal. (3d) 1001, 472 Pac. (2d) 459, 88 Cal. Rptr. 371.

Both the Labor Code and the Charter obligate the City and County to bear the cost of the employee's loss of earnings from a work-connected disability, not to compensate him for damages or suffering. **City and County of San Francisco v. Workmen's Compensation Appeals Board** (1970) 2 Cal. (3d) 1001, 472 Pac. (2d) 459, 88 Cal. Rptr. 371.

Whether this section may be relied on by a fireman who, as a consequence of a work-connected injury, had been receiving city retirement disability benefits, as entitling him to medical treatment for injuries of permanent or extended and uncertain duration without applying to the Workmen's Compensation Appeals Board or without regard to any period of limitations, is a question of fact, to be determined by remand to the Appeals Board. **City and County of San Francisco v. Workmen's Compensation Appeals Board** (1970) 2 Cal. (3d) 1001, 472 Pac. (2d) 459, 88 Cal. Rptr. 371.

§ 173. Registrar of Voters.

Under the provision that "The conduct, management and control of . . . the holding of elections in the city and county shall be vested exclusively" in the registrar of voters, and under the provision in Charter section 180 that "Unless and until it be proven otherwise by official investigation by the registrar, it shall be presumed that the petition filed conforms to all legal requirements and contains" sufficient qualified signatures, the acting registrar of voters did not exceed his authority by undertaking to determine whether a proposed initiative measure was within the power of the electorate to adopt. **Farley v. Healey** (1967) (dissent) 67 Cal. (2d) 325, 431 Pac. (2d) 650, 62 Cal. Rptr. 26.

§ 179. Initiative, Referendum and Recall.

The power of initiative must be liberally construed to promote the democratic process. **Farley v. Healey** (1967) 67 Cal. (2d) 325, 431 Pac. (2d) 650, 62 Cal. Rptr. 26.

The power of initiative is not limited to submitting initiative measures to the electorate that concern only municipal affairs on which the Board of Supervisors could enact binding legislation. **Farley v. Healey** (1967) 67 Cal. (2d) 325, 431 Pac. (2d) 650, 62 Cal. Rptr. 26.

This section, which reserves to the people the power to initiate "any ordinance, act or other measure which is within the power conferred upon the board of supervisors to enact . . . ", imposes no limits on the type of declarations of policy that may be submitted by initiative. **Farley v. Healey** (1967) 67 Cal. (2d) 325, 431 Pac. (2d) 650, 62 Cal. Rptr. 26.

The numerical requirement as to submitting initiative measures serves as a built-in safeguard against frivolous use of the initiative process. There is no other limitation in the Charter that prevents submission to a general vote of a measure declaring policy on a matter of national concern. **Farley v. Healey** (1967) 67 Cal. (2d) 325, 431 Pac. (2d) 650, 62. Cal. Rptr. 26.

Under the provision in section 2 of the Charter that "The city and county may make and enforce all laws, ordinances and regulations neces-

sary, convenient or incidental to the exercise of all rights and powers in respect to its affairs, . . . " initiative legislation which may be adopted by a chartered city is limited to "municipal affairs." The latter term, as used in the California Constitution, refers to "the internal business affairs of a municipality." **Farley v. Healey** (1967) (dissent) 67 Cal. (2d) 325, 431 Pac. (2d) 650, 62 Cal. Rptr. 26.

The use in this section of the phrase "declaration of policy" does not mean that the people intended to reserve to themselves a unique straw vote or poll-taking device. Even if this were the purpose of the framers of the Charter, it would be to no avail, because the limitations of the California Constitution, which is the measure of the initiative power, must control. **Farley v. Healey** (1967) (dissent) 67 Cal. (2d) 325, 431 Pac. (2d) 650, 62 Cal. Rptr. 26.

§ 180. Petitions.

Under this section, the acting registrar of voters exceeded his authority by undertaking to determine whether a proposed initiative measure was within the power of the electorate to adopt. His duty is limimted to the ministerial function of ascertaining whether the procedural requirements for submitting an initiative measure have been met. **Farley v. Healey** (1967) 67 Cal. (2d) 325, 431 Pac. (2d) 650, 62 Cal. Rptr. 26.

Given compliance with the formal requirements for submitting an initiative measure, the registrar of voters must place it on the ballot unless he is directed to do otherwise by a court on a compelling showing that a proper case has been established for interfering with the initiative process. **Farley v. Healey** (1967) 67 Cal. (2d) 325, 431 Pac. (2d) 650, 62 Cal. Rptr. 26.

Under the provision in Charter section 173 that "The conduct, management and control of . . . the holding of elections in the city and county shall be vested exclusively" in the registrar of voters, and under the provisions in this section that "Unless and until it be proven otherwise by official investigation by the registrar, it shall be presumed that the petition filed conforms to all legal requirements and contains" sufficient qualified signatures, the acting registrar of voters did not exceed his authority by undertaking to determine whether a proposed initiative measure was within the power of the electorate to adopt. **Farley v. Healey** (1967) (dissent) 67 Cal. (2d) 325, 431 Pac. (2d) 650, 62 Cal Rptr. 26.

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